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**Audit of the  
Westside Housing Cooperative  
Property Rehabilitation Project**

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City Comptroller  
City of Milwaukee, Wisconsin

**November 2005**

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Office of the Comptroller  
November 21, 2005

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To the Honorable  
the Common Council  
City of Milwaukee

Dear Council Members:

The attached report summarizes the results of our Audit of the Westside Housing Cooperative Property Rehabilitation Project. The Project involved repairs to correct building code violations and make other improvements to nine Westside Housing Cooperative (WHC) properties, comprising eighteen residential housing units. The Project was administered by the South Community Organization (SCO) and was funded by the City of Milwaukee with a Federal HOME grant. The audit was requested by Alderman Robert Bauman.

The audit found significant noncompliance with grant regulations and contract requirements by SCO and its subcontractors. SCO's subcontractors charged excessive prices for repair work and apparently billed for some work not performed, or not performed properly. There is potential fraud in the WHC Project. The audit also found a need for improvement in City oversight of HOME grant projects.

Audit findings and recommendations are discussed in the Audit Conclusions and Recommendations section of the report, which is followed by responses from the Community Block Grant Administration Division (CBGA) in the Department of Administration, the grant escrow agent Chicago Title Insurance Company and SCO.

Special appreciation is expressed to the Neighborhood Improvement Development Corporation in the Department of City Development for its significant contribution to the audit. Appreciation is also expressed to the CBGA and Chicago Title for their cooperation and assistance. SCO was also helpful in the conduct of the audit, but did not provide some requested documentation. We further wish to acknowledge the interest and persistence of Ms. Rosann Mathias in informing the City and the public about problems in the WHC Project.

Sincerely,



W. MARTIN MORICS  
Comptroller

## I Scope and Objectives

This is an audit of the Westside Housing Cooperative Property Rehabilitation Project, administered by the South Community Organization (SCO) and funded by the City of Milwaukee with a Federal HOME grant. The Project involved repairs to correct building code violations and make other improvements to nine Westside Housing Cooperative (WHC) properties, comprising eighteen residential housing units.

This audit was requested by Milwaukee Alderman Robert Bauman in an August 5, 2004 letter to the Comptroller stating that,

*"I am personally familiar with several of the properties on which work was allegedly performed and several constituents of mine have brought several other properties to my attention. It appears to me that there are instances where work specified on the scope of work for the property was not performed; where the work performed was not performed in a workmanlike manner; where the price of the work far exceeded industry norms and common sense; and instances where properties were cited for building code violations after the work was allegedly completed. My concerns are as follows: **First, was the work for which SCO was reimbursed actually performed?** Second, in the case of work actually performed, **was the work performed in a workmanlike manner?** Third, **what if any oversight was undertaken with respect to the preparation of the scope of work for each property, with respect to cost estimating, with respect to contract bidding, and with respect to inspection/sign off by block grant office and/or DNS following completion and prior to disbursement of block grant funds?** An additional issue involves the disposition of some of the properties... It has been mentioned to me that properties rehabbed with federal HOME funds cannot be sold to absentee investor-owners..."*

The audit covered the entire project from inception to date and included interviews with personnel from the City, SCO, and the construction escrow company Chicago Title. The audit also included a review of documentation provided by these parties. The objectives of the audit were to:

- Evaluate compliance with grant regulations and contractual requirements,
- Evaluate rehabilitation costs and work, and
- Evaluate City administration and monitoring.

## II Organization and Fiscal Impact

Beginning in 2000 and continuing through 2003, South Community Organization (SCO) provided administrative services to the Westside Housing Cooperative (WHC) under a Professional Services Agreement between the two organizations. SCO handled all day to day WHC operations, including managing and downsizing WHC's residential property portfolio. WHC paid SCO monthly fees for these services under this Agreement.

SCO in its response to the audit explains its involvement with WHC stating that,

*"SCO's work with the Westside Housing Cooperative dates back to 1999 when Westside was on the brink of bankruptcy, in default on its loans with its lenders, including M&I Bank, TCF Bank, Interbay, WHEDA, and the Milwaukee County HOLF program, in default on the payment of its property taxes and obliged to pay approximately \$30,000 in fines for building code violations. SCO, which had no prior relationship with Westside, was asked by Westside's lenders, Alderman Henningsen, Municipal Judge Gramling, and others to assist in the management of this troubled agency. SCO did not replace Westside's board of directors; rather it entered into a contract to hopefully translate its own success in low-income housing rehabilitation into assistance for Westside's board. When SCO began its work, the City of Milwaukee had over \$10 million invested in Westside's 283 housing units, which were subject to foreclosure and at risk of becoming board-ups."*

WHC and SCO entered into a Professional Services Agreement on February 1, 2000 specifying *"that SCO's activities shall include but not be limited to: Conduct all property management, asset management, accounting and personnel management for WHC for the next 12 months..."* This Agreement was extended through 2003.

On August 6, 2001 SCO's Executive Director wrote to the Community Block Grant Administration (CBGA) in the Department of Administration on WHC's behalf stating that,

*"During the past two years WHC has embarked on a process of downsizing their portfolio to a manageable number of units, thus making them more efficient and more cost effective...Many of the remaining units require moderate to substantial rehab to return them to code compliance and energy efficiency. If WHC were able to perform this rehab on a subsidized basis, the ability to market these*

*properties to low/moderate income purchasers would be greatly enhanced...WHC is requesting consideration of an allocation of \$500,000 in HOME funds which would be used as a construction subsidy. With these funds, WHC would ensure that a minimum of 20 units would be renovated and marketed for resale to owner occupants..."*

The City awarded the \$500,000 Federal HOME grant to WHC. The WHC Board of Directors adopted a resolution designating the SCO Executive Director as its agent, empowered to sign and bind WHC to the terms of all documents, including the City grant documents. On July 25, 2002 the SCO Executive Director executed the City grant contract on behalf of WHC. Attachment A to the grant contract specifies SCO's responsibilities under the grant, including the following:

- *"Rehab 20 homes to code compliance and energy efficiency. Serving as general contractor, SCO on behalf of WHC will design a scope of work and budget for all rehab activities. SCO will supervise all subcontractors.*
- *Sell 20 homes to low/moderate income buyers. Using brokers and home purchase counseling agencies, SCO on behalf of WHC will identify and qualify buyers for rehab projects."*

To summarize the situation, Westside Housing Cooperative owned the nine properties (18 housing units) to be repaired under the City HOME grant and engaged South Community Organization to execute the repairs. SCO signed all Project documents on behalf of WHC and hired and supervised the construction subcontractors, APEX Design and General Contracting, Inc. and Fusion Design Professionals, Inc.

CBGA provided City administration of the grant and contracted with Chicago Title Insurance Company to disburse the grant funds directly to the construction subcontractors. WHC and SCO did not receive or handle any City funding for this Project. SCO continued to receive compensation from WHC as described above.

At the termination of SCO's work on the WHC properties, around the end of 2003, \$446,327 of the \$500,000 in Federal HOME funds had been expended.

### III Audit Conclusions and Recommendations

The Westside Housing Cooperative Property Rehabilitation Project was only one part of SCO's efforts to assist WHC. It appears that these other aspects of SCO's efforts on behalf of WHC may have been beneficial for the WHC.

SCO's overall accomplishments were not within the scope of this audit and therefore were not evaluated. However, SCO's Executive Director asserts in an April 28, 2005 letter to the Office of the Comptroller that,

*"...we [SCO] worked with WHC for almost 4 years and during that time, considerable good was accomplished. I freely admit that some errors were made, but I believe that the overall impact of our efforts on the west side community was positive. At the commencement of our efforts, WHC was in a state of collapse and I believe destined to be defunct within a year. Through our efforts, the portfolio was reduced from 283 units of housing, to a total of 50. Of the 233 units that were sold, 47 sales totaling 105 units of housing went to owner occupants and neighborhood buyers. An additional 51 units that sold were multi-family and unable to be sold to owner occupants. 14 families that purchased WHC homes received down payment assistance grants from the Federal Home Loan Bank through a grant that Tri-Corp [SCO] wrote on WHC's behalf...The greatest indicator of our success is that 17 months after ending our management contract with WHC, they are still in business providing affordable housing on Milwaukee's west side."*

Tri-Corp Housing, Inc. is the parent corporation to South Community Organization (SCO), Southeast Affordable Housing and Housing with Help.

Despite these accomplishments, SCO was derelict in its administration of the WHC Project to repair the eighteen housing units. The concerns raised by Alderman Bauman were confirmed by the audit. The audit found significant noncompliance with grant regulations and contract requirements. SCO's subcontractors charged excessive prices for repair work and apparently billed for some work not performed, or not performed properly. There is potential fraud in the WHC Project.

## A. Compliance with Grant Regulations and Contracts

SCO and its subcontractors did not comply with grant regulations and contract requirements to reduce lead-paint hazards and to correct all building code violations for the WHC properties. It also appears that WHC and SCO did not comply with requirements on tenant income and rent restrictions. The extent and significance of this noncompliance indicates a blatant disregard for grant regulations, City directives and contract requirements by SCO and its subcontractors.

Grant regulations and the grant contract require the control and abatement of lead-paint hazards. A U.S. Department of Housing and Urban Development reference manual dated March 2002 requires that grant recipients "*Identify and control lead hazards*" when HOME grant funded repair work costs between \$5,000 and \$25,000 per residential housing unit, and to "*Identify and abate lead hazards*" for units over \$25,000. Five of the nine WHC Project properties utilized between \$5,000 and \$25,000 per unit. The other four properties exceeded \$25,000 per unit. Therefore, all of the WHC properties required lead hazard control and abatement work.

SCO on behalf of WHC contracted with APEX Design and General Contracting and Fusion Design Professionals to perform the repairs. The construction contract with Fusion states that "*The tasks to be addressed for each property include, but are not limited to the following: roofing, heating, lead abatement...*" **Copies of the APEX construction contract and subcontracts were requested but not provided by SCO.**

Despite these grant regulations and contract requirements, SCO and its subcontractors did not perform the lead hazard reduction. On October 29, 2004 the Health Department wrote to CBGA indicating that lead levels sampled in eight of the eighteen WHC housing units exceeded Federal standards. The Department of Neighborhood Services (DNS) subsequently determined that eight of the nine properties are still in need of lead reduction work estimated to cost an additional \$41,260.

Grant regulations and the grant contract require that the HOME funded properties be rehabilitated to full interior and exterior building code compliance. The WHC Project Activity Workplan prepared by SCO and incorporated as Attachment A to the grant contract called for WHC to "*Rehab 20 homes to code compliance and energy efficiency.*"



On May 10, 2002 SCO's Executive Director wrote DNS stating,

*"...WHC was awarded a \$500,000 allocation of HOME funds at the November Policy Committee meeting. These funds were for the purpose of returning 20 homes to code compliance and selling them to low/moderate income owner occupants...WHC will utilize the services of South Community Organization as a construction expeditor during the renovation. As per CBGA regulations, compliance with all code issues will need to be certified by DNS personnel prior to CBGA recognition of a completion. It is our intent to focus on the exterior of the properties initially..."*

The construction contract with Fusion states that *"Selected houses will become code compliant and will be in a safe and 'move in' condition as outlined in the Construction Specifications."*

The audit indicates that SCO may have attempted to mislead the City about the code compliance status of the WHC properties. SCO requested and received certificates of exterior code compliance from DNS on five Project properties. Also, in correspondence with CBGA the SCO Executive Director was evasive on the issue of code compliance. In late 2003 CBGA discovered that the WHC properties were not fully code compliant, despite being reported as complete by SCO.

In June 2004, at the request of CBGA, the Common Council awarded an additional \$100,000 in HOME funds for SCO to complete the code compliance work. In August 2004 Alderman Bauman requested that the Comptroller examine the WHC Project and that CBGA withhold further disbursements to SCO until his concerns were resolved. In September 2004 the Common Council transferred the additional \$100,000 grant allocation from SCO to the Department of City Development (DCD). The Neighborhood Improvement Development Corporation (NIDC) in DCD is coordinating remediation of the WHC properties. Actual code compliance work is being performed by the Housing Authority of the City of Milwaukee.

DNS has determined that seven of the nine WHC properties need an additional \$95,347 in code compliance work, covering interior, exterior and lead abatement work. In addition, the new owner of the eighth property obtained a five-year \$14,375 forgivable loan from NIDC toward \$28,750 in code compliance work. NIDC indicates that the ninth property cannot be adequately rehabilitated and is a candidate for demolition.

Attachment A to the grant contract called for WHC to "Sell 20 homes to low/moderate income buyers." The Attachment D Mandatory Contract Provisions for Subrecipients of HOME Funds states,

*"The information required to be contained in a project record includes:...The name of the household or person assisted: The income category...The Contractor [WHC] agrees to conduct annual income recertifications. The Contractor will provide documentation...Annual Rent Reviews...These rent reviews will certify that the rents charged are within the allowable program limits...The certification documentation shall be submitted..."*

**Despite requests by CBGA and the Office of the Comptroller, the required income documentation has not been submitted.** NIDC contacts with new owners of some of the WHC Project properties indicate that the grant requirements for tenant income and rent affordability were not incorporated into the property sales by SCO.

According to CBGA, the City's preferred disposition for HOME funded properties is sale to low/moderate income owner-occupants. However, both CBGA and NIDC assert that HOME grant regulations do not require that the properties be sold to owner-occupants, only that the tenants have low/moderate incomes.

## **B. Rehabilitation Costs and Work**

**SCO's subcontractors appear to have charged excessive prices for their repair work and to have been paid for work not performed, or not performed properly. There is potential fraud in the WHC Project. By virtue of its omissions and commissions, SCO shares primary responsibility for the improper billings by its subcontractors.**

NIDC estimated the value of the repair work performed by SCO's subcontractors from a review of project documents and exterior inspections of the WHC properties. **Based on NIDC's estimates, the subcontractors were paid over a quarter million dollars more than the value of their work, as summarized in Table 1.** This overpayment is about one and a half times the estimated value of the work performed.

**Table 1: NIDC Estimated Value of Work on WHC Properties**

Project Property	APEX Payments	Fusion Payments	Total Payments	NIDC Value	Payments Over Value
1232-34 N 22 <sup>nd</sup> Street	\$26,425	\$0	\$26,425	\$10,550	\$15,875
1335-37 N 28 <sup>th</sup> Street	\$11,323	\$14,600	\$25,923	\$17,814	\$8,109
1323-25 N 25 <sup>th</sup> Street	\$13,600	\$16,958	\$30,558	\$20,500	\$10,058
2902-04 W Juneau	\$0	\$61,528	\$61,528	\$28,628	\$32,900
1443-45 N 24 <sup>th</sup> Place	\$0	\$18,203	\$18,203	\$7,750	\$10,453
1139 N 21 <sup>st</sup> Street	\$61,945	\$4,522	\$66,467	\$0	\$66,467
1303 N 25 <sup>th</sup> Street	\$0	\$45,927	\$45,927	\$34,550	\$11,377
1229-31 N 33 <sup>rd</sup> Street	\$0	\$88,290	\$88,290	\$36,108	\$52,182
3207-09 W McKinley	\$0	\$76,121	\$76,121	\$26,100	\$50,021
Totals	\$113,293	\$326,149	\$439,442	\$182,000	\$257,442

NIDC estimated the value of the work at \$165,000 or \$182,000 depending on whether roofing work included the tear-off of the old roofs at 1335 N. 28<sup>th</sup>, 1303 N. 25<sup>th</sup> and 1323 N. 25<sup>th</sup>. For 1139 N. 21<sup>st</sup> the May 9, 2005 NIDC report states *"Value of Work is \$0. More harm than good was done to the exterior."*

In addition to the payments to SCO's subcontractors APEX and Fusion, the escrow agent Chicago Title Insurance Company received \$6,885, resulting in a total project cost of \$446,327 under the \$500,000 grant.

**The substantial difference between payments to SCO's subcontractors and the value of their work as estimated by NIDC can be attributed to improper billings by APEX and Fusion. The audit found that these subcontractors overcharged for repair work and charged for some work not performed or not performed properly.**

The audit indicates that Fusion charged an excessive mark-up on actual construction costs. The property repair budgets prepared by Fusion contain inflated construction costs. Each budget submitted to CBGA for approval includes a misleading line item indicating only a 10 percent mark-up on construction costs. The audit indicates that Fusion marked-up actual construction costs by 83.3 percent overall, to realize a 45.4 percent profit margin. Fusion invoiced the grant \$326,149 for its repair work, indicated in Table 1, while the audit disclosed that Fusion paid its construction subcontractors only \$177,972 for these same repairs. The actual cost of the construction work was determined from copies of subcontracts and other Fusion documents provided by SCO. Although requested, no information was provided on actual repair costs for APEX. Exhibit 1 shows the excessive mark-up on construction costs for 1229-31 N. 33<sup>rd</sup> Street.

In addition to the excessive mark-up on construction costs, NIDC's review indicates overcharges for work not performed or not performed properly. For example, NIDC estimates that Fusion overcharged \$15,620 for repairs not performed or not performed properly at 1229-31 N. 33<sup>rd</sup> Street. NIDC estimates that Fusion overcharged the grant by \$9,025 for roofing work that did not include removal of the old shingles for this property, as required in the construction specifications. Also, Fusion was paid a total of \$6,595 for the replacement of this property's concrete steps and installation of railings and glass block windows that were apparently not completed. For example, NIDC also estimates that Fusion overcharged \$25,140 for work at 2902-04 W. Juneau Avenue, including \$12,615 for construction of a new rear porch that was not done and \$10,750 for substandard roofing without a tear-off of the old shingles as required by the scope of work specifications.

According to CBGA, a former Fusion partner contacted the Agency in December 2003 alleging improper billings by Fusion. The CBGA file notes state that the former partner,

*"Claims that the scopes [construction specifications and budgets] are inflated...Said there was no intention of performing interior code compliance and that only the exteriors were going to be done...Said that Fusion 'cuts lots of corners', such as pretending to put a new roof on at 29<sup>th</sup> and Juneau. Says that all they did was patch it up and put some shingles on so it would pass inspection. Left lots of rotted roofing boards...Also at 29<sup>th</sup> and Juneau,...claims that the scope included replacing a back porch, but that it was never done."*

This former partner signed the Fusion invoices before leaving the firm. CBGA states that it contacted the Office of the Inspector General for the U.S. Department of Housing and Urban Development HUD after receiving these allegations.

The audit also indicates that APEX overcharged for substandard roofing work at 1232-34 N 22<sup>nd</sup> Street. The APEX invoice to WHC dated December 5, 2002 states *"Roofing tear off complete \$12,500"* and Chicago Title paid this amount to APEX. In December 2004, DNS noted that the APEX roof had not been properly installed and by April 2005 shingles had fallen off the roof and daylight could be seen through the roof from the attic. DNS determined that the roof needed to be replaced again at a cost of \$10,952. The City Housing Authority recently completed this roof replacement.

Consistent with the Professional Services Agreement between WHC and SCO, the City HOME grant contract called for SCO to *"design a scope of work and budget for all rehab*

*activities” and “supervise all subcontractors.”* By virtue of its omissions and commissions, SCO shares primary responsibility for the improper billings and inadequate performance by its subcontractors. According to SCO, the Fusion and APEX companies were owned and operated by former SCO employees. SCO engaged Fusion to develop the scopes of work containing the construction specifications and budgets for the WHC properties and then subcontracted with Fusion and APEX on behalf of WHC for the actual repair work, without competitive bidding. Fusion subcontracted its repair work without competitive bidding. SCO’s Executive Director countersigned the draw requests to Chicago Title authorizing payments on the Fusion and APEX invoices.

On December 18, 2003 the CBGA Director wrote the SCO Executive Director stating, *“After review of a property (1323-25 N 25<sup>th</sup>) reported to CBGA as completed it appears that you have administered no oversight with the use of the HOME funds allocated to this residence and potentially all or some of the other Westside properties in question. Interior lead samples in living spaces in just one of the units was 5 times over the acceptable level with massive paint and wall/ceiling deterioration throughout the unit...”*

### **C. City Administration and Monitoring**

There was an overall breakdown in the management and oversight of this Westside Housing Cooperative Property Rehabilitation Project, resulting in over a quarter million dollars in wasted grant funds and continued inadequate housing for the residents of the eighteen WHC housing units. WHC’s agent SCO failed to properly manage or oversee the construction subcontractors. In fact, in the case of SCO, the organization took efforts to avoid basic accountability for its own organization and that of its subcontractors.

The Community Block Grant Administration is to be credited for persevering to ultimately gain access to the subject properties to identify deficiencies. CBGA also contracted with Chicago Title Insurance Company in an effort to control the disbursement of HOME funds. However, CBGA’s follow-up and disclosure of problems in the WHC Project could be characterized as *“too little; too late”*. Although CBGA initially contacted the Office of the HUD Inspector General about the WHC Project, the IG’s investigator informed the City Attorney’s Office that CBGA failed to respond to requests for documentation. Also, CBGA failed to timely report the serious problems in the WHC Project to the Common Council’s Community and Economic Development Committee

and initially advocated for further funding for SCO in spite of these problems. CBGA stopped further Project funding for WHC and SCO only after an aldermanic request to do so.

CBGA contracted with Chicago Title Insurance Company to act as escrow agent for the funds and to inspect completed rehabilitation work prior to payment. Chicago Title obtained contractor lien waivers, issued title insurance policies, inspected the properties and disbursed payments to SCO's subcontractors.

The Escrow Fund Disbursing Agreement between WHC by SCO, CBGA and Chicago Title was executed on June 25, 2002. Section 5 of the Agreement requires Chicago Title to disburse City grant funds to the subcontractors *"If all the terms and conditions of the Grant Contract and this Disbursing Agreement have been complied with to the satisfaction of the Title Company..."*, or as directed by the City. Section 10 of the Agreement states that,

*"...the Title Company further agrees to retain an Inspector to conduct inspections on behalf of the City for the purpose of determining whether work on each Project [property] has been completed...It is understood that the inspections which Inspector may conduct are for the benefit of the City only. The CBO [WHC through SCO] acknowledges that it will be the CBO's personal responsibility to assure itself that the quality of workmanship and material is satisfactory, and that each Project [property] is built in accordance with plans and specifications..."*

Section 6 of the Agreement requires Chicago Title to withhold payment when,

*"...proper documentation as required by this Disbursing Agreement to support a given draw request has not been furnished, or that the results of the inspection required under Section 10 of this Agreement are not satisfactory..."*

Section 9 of the Agreement states that WHC through its agent SCO,

*"shall be responsible for making inspections of each Project [property] during the course of construction and shall determine to its own satisfaction that the work done, if any, or materials supplied by the Contractors to whom payment is to be made out of each draw has been properly done or supplied in accordance with applicable contracts with such Contractors."*

The audit indicates that both WHC's agent SCO and Chicago Title's subcontracted inspector failed to fulfill their inspection responsibilities under this Escrow Agreement. On several occasions Chicago Title temporarily held back partial payments based on its

inspections, but did not permanently withhold any major payments. Contrary to the Escrow Agreement, Chicago Title paid SCO's subcontractors for work that NIDC indicates was not performed. Also in conflict with the Agreement, SCO did not ensure that the construction work was done properly before approving the construction draws. WHC's agent SCO provided inadequate oversight on the Project.

In reviewing the City's monitoring efforts, it was noted that CBGA discovered that the WHC properties were not code compliant after being reported as completed by SCO. CBGA aggressively pursued access to the properties so that DNS could determine the extent of interior code compliance.

In late December 2003, CBGA contacted the HUD Inspector General's Office after the significant interior code violations were found in the WHC Project properties and after receiving allegations of improper billing from the former Fusion partner. In August 2004, the IG's investigator informed the City Attorney's Office that CBGA had not responded to two follow-up requests for documentation. The City Attorney's Office then sent the documentation to the IG. The CBGA Director asserts that the requested documentation was sent to the IG's Office, but possibly not received by the assigned investigator.

CBGA does not perform a meaningful evaluation of the work specifications and budgets proposed by sub grantee community organizations for HOME funded projects. The City does not conduct its own preliminary inspections or prepare cost estimates. Therefore, CBGA has no way of determining whether the proposed scopes of work address all code violations or whether the repair budgets are reasonable. CBGA approves proposed specifications and budgets assuming without verification that grantees will propose appropriate work at reasonable cost and will obtain a comprehensive DNS inspection upon completion to demonstrate code compliance. This CBGA assumption proved to be incorrect for the WHC Project.

The complex organization structure through which the \$500,000 of Federal HOME grant funds were funneled contributed to the problems noted above. The Westside Housing Cooperative owned the Project properties and received the grant. WHC engaged the South Community Organization to oversee the property repairs, as well as provide other services. SCO subcontracted with two other organizations, APEX Design & General Contracting and Fusion Design Professionals for the rehabilitation work. APEX and

Fusion subcontracted the work to various construction contractors. See Exhibit 2. This bureaucratic structure promotes the types of problems disclosed in the audit.

Instead of value added, the myriad of organizations involved in this effort detracted from overall performance of the needed rehabilitation work. While SCO provided unrelated property management and sales services for the WHC properties, it is questionable what if any value SCO provided in administering the rehabilitation work which is the subject of this audit. Likewise, given the misleading information provided and excess costs charged by APEX and Fusion, it is difficult to identify positive contributions by either of these subcontractors toward getting the work done properly.

The multi-layered organization structure illustrated in Exhibit 2 increased the cost of necessary rehabilitation work as the layers of subcontractors charged for time, costs and an expected, often excessive, profit. Overhead costs apparently escalated. As subcontractor "*middlemen*" were added, the audit shows that more problems than benefits resulted. Moreover, the addition of non-essential subcontractors discouraged effective communication and diffused accountability as "*who is to blame*" became a major issue.

#### **D. Recommendations**

##### **Recommendation 1: DNS rather than the grantees should prepare work specifications and budgets for HOME projects**

Given its staff experience and incentive for efficiency, the Department of Neighborhood Services should prepare all construction specifications and budgets for the scopes of work on HOME funded rehabilitation projects, rather than the grant funded community organizations or their subcontractors. DNS would first inspect the properties to identify all interior and exterior building code violations, including lead paint hazards. This will ensure that all code violations are addressed in initial work plans. This should also result in the consistent application of construction specifications and cost estimates for all HOME funded projects citywide. DNS currently prepares similar scopes of work for Community Development Block Grant funded projects.



The grant funded community organizations should continue to be responsible for identifying residential properties in need of rehabilitation and for proposing improvements other than code compliance work to be included in the DNS prepared construction specifications and budgets.

The Neighborhood Improvement Development Corporation also has staff experienced in the preparation of construction specifications and budgets and could continue to prepare the scopes of work for NIDC residential rehabilitation projects.

**Recommendation 2: DNS should inspect completed work before contractors are paid**

The Department of Neighborhood Services should inspect completed rehabilitation work before contractors are paid. Having prepared the construction specifications and budgets under Recommendation 1, DNS would be in a good position to determine whether work was adequately performed to specifications and at reasonable cost. Grant funds should only be disbursed upon satisfactory inspection by DNS.

Such inspections by DNS would obviate the need for inspection services under the Escrow Agreement. The Agreement could then be revised to eliminate these inspections but retain the other important services such as lien waiver receipt, title insurance and payment disbursement.

**Recommendation 3: HOME projects should be administered more directly without extensive subcontracting**

The organization and administrative framework for HOME grant funded projects should be simplified. To maximize funds available for actual rehabilitation work and to facilitate accountability, there should be few if any "*intermediary*" subcontractors.

The multilayered organization structure for the WHC Project illustrated in Exhibit 2 can add cost and discourage accountability in HOME grant projects. The WHC Project should have involved fewer subcontractors. For future projects CBGA should limit the number of organizations involved. As indicated in Recommendation 1, community based housing agencies should focus on the housing needs in the community and identify the

housing stock in need of rehabilitation. The City Department of Neighborhood Services should play the major role in specifying construction work and inspecting completed work before payment.

**Recommendation 4: There should be timely public disclosure of grant problems and corrective actions**

When serious problems are identified in grant funded projects, CBGA should promptly report them to the Mayor and the Common Council Community & Economic Development Committee, along with the corrective actions taken by the Agency. This would constitute an essential public disclosure of problems involving the use of public grant funds.

If a grant funded project incurs major cost overruns, delays or poor performance, the Mayor and Common Council should be informed promptly. This is also necessary where grant funded organizations delay ready access to project properties or fail to provide evidence of compliance with grant regulations and contracts, as was the case in the WHC Project. Informing select aldermen in affected districts is essential, but does not constitute the full public disclosure needed.

**Recommendation 5: City Attorney should review possible contract claims**

The WHC Project should be referred to the City Attorney for an assessment of whether contract claims are appropriate.

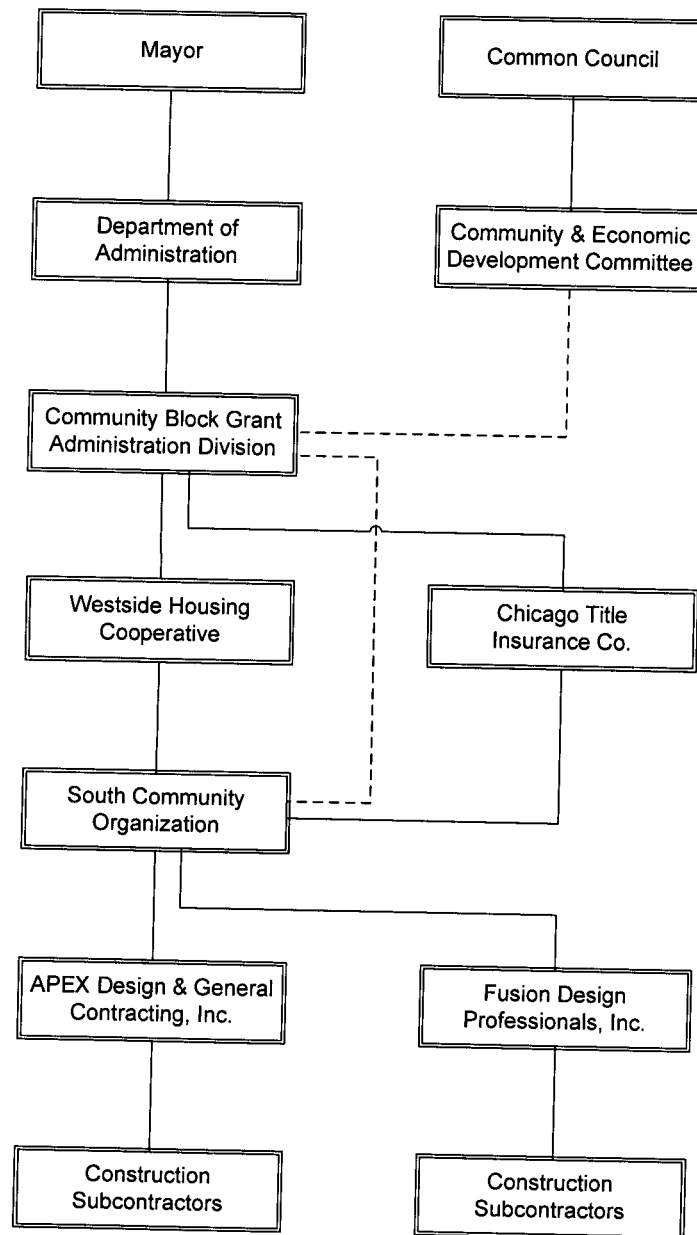
**Audit of Westside Housing Cooperative  
Property Rehabilitation Project  
1229-31 N 33rd Street**

**Exhibit 1**

Work Division	Construction Specifications	Construction Budget	Construction Subcontract	Construction Draws		
1.00 Site: Thoroughly Clean	"Remove all bushes and overgrown vegetation from front, back, and side yards...Remove all rubbish...Demolish and thoroughly remove from the site the entire back porch and...steps"	\$1,000	\$2,091	\$3,750		
1.05 Demolish Front Porch & Porch Roof	"Demolish and completely remove the existing front porch..."	\$4,750	\$2,649	\$4,750		
1.10 Demolish Front Concrete Steps	"Break-up, demolish and otherwise remove concrete steps..."	\$1,025	\$705	\$1,250		
1.15 Site: Landscape Front & Back Yards	"Re-plant or thoroughly seed those areas of property where there is no grass lawn."	\$550	\$1,785	\$1,200		
3.00 Pour New Front Steps	"Pour/supply one (1) concrete staircase similar to that just removed."	\$3,250	\$1,812	\$1,250		
4.00 Tuck-point/Repair House Brick	"Repair any/all brick around house base. Tuck-point as required and replace any missing brick."	\$1,355	\$934	\$1,675		
5.00 Gutters & Downspouts: Replace	"Remove...Replace with new aluminum (tan/brown-colored) gutters and downspouts. Insure that all connections fit tightly and are properly aimed to shed water."	\$2,350	\$1,311	\$2,350		
6.00 Construct Front Porch -Complete	"Construct wood front porch...observing all codes and regulations...Use pressure treated lumber throughout, sink footing base to 4'-6" level..."	\$11,375	\$8,784	\$15,750		
6.05 Construct New Stair Railing	"...install simple wood railings...for both sets of steps...Ensure that each stair railing is code compliant."	\$1,250	\$2,116	\$3,795		
6.10 Repair House Trim	"Inspect all wood trim on house searching for any loose, cracked, bowed, or split wood. Repair..."	\$3,755	\$2,094	\$3,755		
7.00 Replace Existing Roofs	"Install one (1) new roof on house (including cant roofs) - a tear off is required...new roof on garage...new roof on newly constructed front porch...Remove and replace any/all roof boards that are compromised in any way..."	\$16,025	\$8,937	\$16,025		
7.05 Install Vinyl Siding On House	"Do not remove the existing asphalt/shingle siding...install waterproof membrane... to house's exterior. Install vinyl siding...and to house's trim..."	\$14,550	\$8,114	\$9,613		
8.00 Replace Existing Windows	"All window units will be replace...Thirty-two (32) new windows...Glass block windows: Eleven (11) for basement..."	\$9,250	\$6,567	\$11,775		
8.05 Replace Existing Doors	"...install one (1) new 'storm and screen' door at back entrance...install one (1) new inner back door..."	\$1,755	\$979	\$1,250		
16.00 Mount New Exterior Light Fixtures	"...install three (3) wall-mounted light fixtures for exterior use...one (1) at back porch with light switch...two (2) at front porch with light switch...Ensure all electrical codes are carefully adhered to."	\$1,115	\$622	\$1,266		
Retainage				\$8,836		
Total Construction Cost		\$73,355	\$49,500	\$88,290		
Contingency (10%)		\$7,336	\$1,000			
Contractor Mark-up (10%)		\$8,069				
Total Contractor Cost		\$88,760	\$50,500	\$88,290		
Chicago Title Fees		\$600		\$1,070		
Total Property Cost		\$89,360		\$89,360		
Notes:						
1) Construction budget dated 7/30/03 was included in a Feasibility Package approved by CBGA on 8/26/03.						
2) Westside Housing Coop through agent Michael Brever entered into a construction contract with Fusion Design covering 1229 N 33rd.						
3) Construction subcontract for \$49,500 dated 9/3/03 between "Owner's Representative" Fusion Design and "General Contractor" Bob Kent.						
4) Copy of check 604 dated 12/18/03 from Fusion Design to Bob Kent in the amount of \$1,000 for "Extras 1229 N 33rd".						
5) Fusion Design spreadsheet on construction subcontract states new roof installed over existing roof, a tear-off was required..						
6) Chicago Title escrow report indicates Fusion was paid \$88,290.						

**Audit of Westside Housing Cooperative  
Property Rehabilitation Project  
Organization Relationships**

**Exhibit 2**





**Department of Administration**  
Community Block Grant Administration

November 17, 2005

**Tom Barrett**  
Mayor

**Sharon Robinson**  
Director of Administration

**Steven L. Mahan**  
Community Block Grant Director

Mr. W. Martin Morics  
City Comptroller  
City of Milwaukee  
200 East Wells Street  
Milwaukee, WI 53202

**Re: Response to Audit of the Westside Housing  
Cooperative Property Rehabilitation Project**

Dear Mr. Morics,

The City of Milwaukee Community Block Grant Administration (CBGA) appreciates the effort put forth by the Office of the Comptroller in performing the audit of the Westside Housing Cooperative (WHC) and is grateful for the opportunity to comment on the final report.

We find this audit report to be, in general, both a comprehensive and accurate accounting of the Westside Housing Cooperative project. However, CBGA strongly disagrees with what seems to be subjective commentary characterizing the actions of this office as "too little, too late". It is well known that CBGA has a strong history of raising concerns about the WHC project from inception, and has taken an aggressive approach in reporting about discrepancies since October of 2003.

The comment that CBGA's actions could be characterized as "too little, too late" conflicts with the audit findings which state, "CBGA is to be credited for persevering to ultimately gain access to the subject properties to identify deficiencies." As the deficiencies of the contracted work by WHC became apparent, CBGA halted and then froze reimbursements to the program. This was put in effect as early as November 20<sup>th</sup>, 2003, preceding aldermanic intervention. This type of perseverance is clear throughout the CBGA investigation of this project. In general, documentation supporting problems and issues regarding this project was either generated or provided by CBGA records. Every concern brought forth in either official or community based venues was based on information generated by and requested from the CBGA office.

In addition, all related documents were appropriately forwarded to the local office of the U.S Department of Housing and Urban Development (HUD), City Attorney's Office, and the Office of the Inspector General in January of 2004. Supplementary documentation obtained from the title company (regarding the distribution of funds) was submitted on September 3, 2004.

This office, especially in regards to the Westside Housing Cooperative, has an established track record of comprehensive oversight and notification of all concerned entities within the purview of the City of Milwaukee as well as HUD.

### **Responses to Recommendations**

#### **Recommendation 1: DNS, rather than the grantees should prepare work specifications and budgets for HOME projects.**

CBGA agrees with the spirit of this recommendation, but will require clarification on the desire or capacity of the Department of Neighborhood Services to perform this function. Therefore, we recommend the initiation of a discussion regarding the fiscal ramifications of this recommendation, given the impact on the programmatic and administrative budgets of the contracting community based organizations as well as the Department of Neighborhood Services. If acted upon this could not be an unfunded mandate.

#### **Recommendation 2: DNS should inspect completed work before contractors are paid.**

CBGA agrees with the recommendation, pending a discussion and resolution of the same concerns listed above.

#### **Recommendation #3: HOME Projects should be administered more directly without extensive subcontracting.**

The WHC project has been problematic since its inception. The totality of the entire HOME effort in the City of Milwaukee cannot be judged on the lack of performance of the WHC.

CBGA has been on record in regards to the structure of the WHC regarding the non-existence of administrative dollars, the lack of quality control, and the complexity of the inter-agency agreements when confirming the scope of work as well as contractual payments.

CBGA has relationships with a number of entities that perform according to contract standards required by the HOME program. To limit sub-contracting throughout the HOME program would inhibit vendor capacity to complete the requisite scope of work in a manner conforming to required codes, regulations, and within specified budgets. Not all vendors have a full cadre of personnel skilled in every needed trade to fulfill their contractual obligations. As a result, the use of sub-contractors is necessary.

**Recommendation 4: There should be timely public disclosure of grant problems and corrective actions.**

CBGA has shown due diligence in providing information regarding its concerns regarding the WHC project. Records show that public disclosure of issues with this project was provided as early as December of 2003 when internal documents were routed to the following:

- the Office of the Mayor,
- the City Attorney's Office,
- and, the Chair (Alderman Don Richards) of the Community Development Committee ( it has since been re-named the Community and Economic Development Committee)

Additional information was provided, in January of 2004 to:

- the local HUD Office
- and, the Inspector General of the U.S. Department of Housing and Urban Development

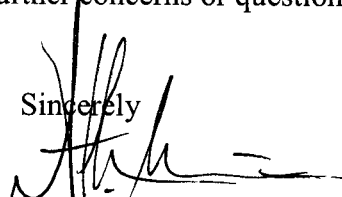
The aforementioned parties were notified in an appropriate and timely manner. CBGA has, and will continue to follow the practice of providing information to all concerned entities regarding both program performance and fiscal accountability for all funded projects, as necessary and when warranted.

**Recommendation 5: City Attorney should review possible contract claims.**

CBGA concurs with this recommendation.

Please contact me if you have any further concerns or questions regarding this matter.

Sincerely



Steven L. Mahan  
Block Grant Director

# CHICAGO TITLE INSURANCE COMPANY

20900 SWENSON DRIVE, WAUKESHA, WISCONSIN (262) 796-3800



November 11, 2005

Mr. W. Martin Morics  
City Comptroller  
City of Milwaukee  
200 East Wells Street  
Milwaukee, WI. 53202

Re: Westside Housing Cooperative Property  
Rehabilitation Project

Dear Mr. Morics,

This letter is the response of Chicago Title Insurance Company to the Confidential Draft Extract [dated 11/10/05] of the audit of the Westside Housing Cooperative Housing Property Rehabilitation Project.

Chicago Title Insurance Company strongly disagrees with the conclusions contained in the second paragraph on page 6 of the Extract that Chicago Title Insurance Company failed to fulfill its inspection responsibilities under the escrow agreement and that payments were made to contractors contrary to the terms of the escrow agreement. We respectfully request that said conclusions be deleted from the final audit report.

Paragraph 13 of the escrow agreement provides that "The Title Company ...shall promptly make payment to each and every person or party entitled thereto of all the claims for work or labor performed and materials furnished in the performance of this contract.". Paragraph 10 of the escrow agreement provides that "...the title Company further agrees to retain an Inspector **to conduct inspections on behalf of the City** for the purpose of determining whether work on each Project has been completed." [emphasis added]. Greenwaldt Building Inspection Services, Inc. was the company retained by Chicago Title Insurance Company to perform the inspections. Chicago Title Insurance Company did not perform the inspections, contrary to the statement in the fourth paragraph on page 6 of the Extract. The City had the right and ability to review the inspection reports if it so desired.

Pursuant to Paragraph 5 of the escrow agreement payments were to be made by the Title Company if all the terms and conditions of the escrow agreement were complied with. Presumably, said terms and conditions included the receipt of inspection reports which indicated the work listed on the various construction draw requests had been completed. There is nothing on any of the inspection reports that indicates that they were inaccurate and Chicago Title Insurance Company was entitled to rely on and, in fact, did rely on the accuracy of said inspection reports.

As noted above, the inspections were conducted for the benefit of the City. Paragraph 26 of the escrow agreement sets forth the limits of the Title Company's duties.

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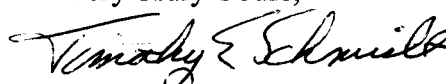
CHICAGO TITLE



Said paragraph provides, *inter alia*, that **"The Title Company does not certify or insure...[d] that the certifications of the Inspector/Architect are correct."** Therefore, Chicago Title Insurance Company cannot be held responsible for any inaccuracies contained in any inspection reports.

It is the contention of Chicago Title Insurance Company that all of our actions related to the disbursement of funds for the subject project were in full compliance with all the terms and conditions set forth in the escrow agreement and we, again, respectfully request that the audit report be amended by deleting any statements or inferences that we did not so comply.

Very Truly Yours,

A handwritten signature in dark ink, appearing to read "Timothy E. Schmidt", written in a cursive style.

Timothy E. Schmidt  
Underwriting Counsel

# MACHULAK, ROBERTSON & SODOS, S.C.

Attorneys at Law

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November 17, 2005

Via Fax & U.S. Mail: (414) 286-3281

Mr. W. Martin Morics  
Office of the Comptroller  
200 East Wells Street/Room 404  
Milwaukee, Wisconsin 53202-3546

Re: Audit of Westside Housing Cooperative - Property Rehabilitation Project

Dear Mr. Morics:

Our board of directors and executive director appreciated the opportunity to meet with you yesterday. I understand that my letter of November 2, 2005, in its entirety, will be published with your final audit report. You asked me, however, to send you a short summary of the salient points we discussed at our meeting yesterday, and I am taking this opportunity to do so.

I wish I could say that this were a situation where we could "agree to disagree", but that is not the case. The audit report you are about to publish continues to cast South Community Organization ("SCO") in a false light, and I remain convinced that there is some political agenda that has tainted the process of this audit. That being said, here are the salient points I wish to make.

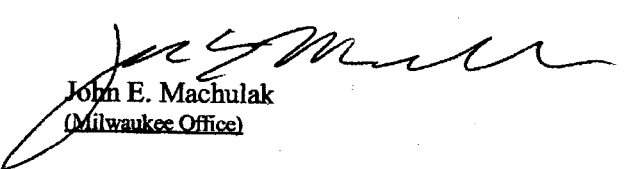
- **Through the date of this writing, we have not been given an opportunity to effectively examine your data.** Your report contains a table listing the values that a city department has placed upon the work performed by the two contractors responsible for the work, Fusion Design and Apex. As you know, the draft report you first gave us stated that one of the two contractors, Apex, charged for tearing off three roofs on the house located at 1232-34 North 22<sup>nd</sup> Street, and that this work was not performed. Only because the summary section of your report contained this detail were we able to demonstrate that this allegation was absolutely false. In fact, as I later wrote you, the very city department that gave you this information authorized the expenditure of \$10,952.00 in tax payer money to replace a perfectly good roof. Your revised audit, instead of acknowledging the mistake, now asserts that the roof was not very good anyway, a point contradicted by a report that I gave you from a roofing contractor.

Despite our request at the meeting, your auditing staff refused to provide us with the details of how, for example, the work performed on a house at 1139 North 21<sup>st</sup> Street was given a zero value when one item of the work was a brand new boiler. We were prepared to roll up our sleeves and work through your report in this level of detail. Unfortunately, your staff refused to engage in this exercise.

- **Your auditing staff has refused to show us the evidence of its claims and innuendo that SCO failed to cooperative with the audit.** Our executive director not only provided you with records that maintained by SCO, but assisted in obtaining the records of one of the two contractors, Fusion Design. He is now faulted for not being able to obtain the records belonging to the other contractor, Apex. By contrast, as was acknowledged by your staff yesterday, no one from the comptroller's office even interviewed the contractors which you are charging with failing to perform work and/or over billing. One would think that this would be a normal part of a fair and impartial auditing process, especially considering that one of the reported objectives of the your audit was to "evaluate rehabilitation costs and work."
- **The audit intentionally distorts the contract arrangements and roles of the respective parties.** At our meeting we had to argue for clarity that Westside Housing Cooperative ("WHC"), and not SCO, was the recipient of grant funds, and that SCO did not charge WHC a special fee for assisting it with respect to these nine properties. SCO was asked by the City, WHC's lenders, and other public officials to assist this troubled organization by orderly liquidating approximately 300 houses as an alternative to foreclosures, board ups, and blighted neighborhoods. Our organization was successful in doing that. SCO charged a monthly consulting fee to WHC beginning in the year 2000, which fee did not change, and in fact diminished, at the time our organization worked with WHC to deploy HOME funds for these nine properties. Had the CBGA office not told us that we could not use our own staff to rehabilitate these nine properties, we would have not had to recommend that WHC hire Fusion Design and Apex. To now suggest that SCO received grant money, was a contractor on this project, or had some economic interest driving this transaction is both false and indicative that there never has been and perhaps never will be any effort on the part of your office to produce an objective audit.

Having said the above, I would like to conclude by saying that our volunteer board of directors would much interested in coming to a constructive resolution of any real problems with work not performed or work poorly performed on the properties in question. Your recommendations are a good start, but we do believe that they fail to target the root of the problem. If indeed Fusion Design and Apex have failed to do what they were supposed to do, they should be contacted and asked to honor their contract warranties. It seems that the whole audit report is directed at casting blame in the matter rather than undertaking what seems to me the more constructive task of having these contractors return and honor their warranties. Obviously, if your auditing staff is withholding the details of the claimed defects in nine properties in question, except for the occasional statement thrown out in the narrative section of your report, we wont be in a position to intelligently formulate a demand upon these contractors. With cooperation from your office, our volunteer board would be more than willing to assist in this type of constructive effort.

Respectfully yours,

  
John E. Machulak  
(Milwaukee Office)

JEM:emk

cc: South Community Organization

# MACHULAK, ROBERTSON & SODOS, S.C.

Attorneys at Law

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November 2, 2005

**HAND DELIVERED AND VIA FAX (414) 286-3281**

Mr. W. Martin Morics  
Office of the Comptroller  
200 East Wells Street  
Room 404  
Milwaukee, Wisconsin 53202-3546

Re: Audit of Westside Housing Cooperative  
Property Rehabilitation Project

Dear Mr. Morics:

Thank you for your letter of October 26, 2005. I did interpret your letter as an unwillingness to meet with us regarding your draft audit of the Westside Housing Cooperative Property Rehabilitation Project. I am happy to see that we can get things back on track. Given the concerns summarized in this letter, can we schedule a meeting before Thanksgiving?

I have not yet received a response to the October 21, 2005, correspondence I sent regarding the first property listed in the table appearing at page 7 of the draft report, namely 1232-34 North 22<sup>nd</sup> Street. I do not understand how Mr. Michalski could miss the obvious fact that there was only one layer of roof on this house (as opposed to three layers), and go on to accuse the contractor of billing for services not performed (tearing off the three layers before installing a new roof). I asked City Attorney Grant Langley to investigate the yet more incredible fact that someone in the City authorized the expenditure of \$10,952.00 to have the newly installed roof torn off and replaced in the last two weeks.

However, our concerns go far beyond this single incident. I speak for our finance committee and the entire board of South Community Organization when I say that we find the draft report at issue is extremely biased, and calculated to damage SCO's reputation. Quite frankly, it reads as though Alderman Robert Bauman has asked your office to inflict as much reputational damage as is possible upon our non-profit organization, and the draft report accommodates him.

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COMM-FAXED

As you may or may not know, our organization is at loggerheads with Alderman Bauman over a totally unrelated issue, namely our operation of West Samaria, a home for mentally disabled individuals located at 2713 West Richardson Place. West Samaria is in Alderman Bauman's neighborhood, and he has demonstrated a desire to remove our mentally handicapped clients from his own backyard. Although West Samaria has been operated in this location for 29 years, Alderman Bauman is currently engaged in challenging the zoning for this facility.

I mention this because to conduct an impartial audit, I would think it to be incumbent upon your office to examine the bias of the individuals who appear to be spurring your audit report. Instead of even mentioning that Alderman Bauman is highly motivated to damage the community standing of our non-profit agency there is absolutely no mention of that obvious bias in your audit report. To the contrary, the draft audit report panders to Alderman Bauman in stating, for example, "[t]he concerns raised by Alderman Bauman were confirmed by the audit."

Aside from Alderman Bauman, your audit report acknowledges "the interest and persistence of community activist Roseann Mathias in informing the City and the public about problems in the WHC project". Roseann Mathias is a private developer in competition with non-profits and antagonistic toward our organization. What exactly makes her a "community activist" versus a person with her own agenda?

Our Board would like to see it noted in connection with this audit that last October 8, 2004, you sent us a letter stating that the Office of the Comptroller audited the project and we passed your inspection [See Exhibit 1]. We do not believe that your office has been immune from political influence to change that result based on the following facts. That same month, on October 29, 2004, your Deputy City Comptroller, Mike Daun sent a private email to Alderman Bauman which disparaged our non-profit agency [See Exhibit 2].

Two days later, at a time when we did not even know of the existence of this email, Alderman Bauman presented its content to the Milwaukee Common Council Housing and Economic Development Committee just before the committee was to pass on \$1 million in funding for our agency to fund our housing rehabilitation programs, which at the time, had the endorsement of the Mayor. At this October 31, 2005, Common Council committee meeting, we lost that funding because Alderman Bauman was able to characterize comments made by Mike Daun as findings of the Comptroller's office. It should not escape notice that Mike Daun's comments relate to SCO's work with the Westside Housing Cooperative, at a time when the present audit was not even in the works. The present audit began after TriCorp lost its funding. The result of the present audit, your draft report, reads as though your office is reaching out to justify the disparaging comments made by Mike Daun in his October 29, 2004 email to Alderman Baumann.

Your cover letter to the audit report states: "There is potential fraud in the WHC project." In this context, you state that "SCO's contractors charge excessive prices for repair work and apparently bill for some work not performed or not properly performed." The work called into question by this statement in your cover letter will be discussed below. Here I question your use of the term "SCO's contractors." SCO was not the recipient of block grant funds in connection with any of

Mr. W. Martin Morics

November 2, 2005

Page 3

the houses made the subject of your audit. The recipient of these funds was Westside Housing Cooperative. SCO was not solely responsible for the monitoring of the contractors engaged to perform the work at issue. In fact the prices and scope of the repair work were reviewed by the City of Milwaukee Block Grant Office before any work began. The parties had an escrow arrangement in place with Chicago Title to insure that money would not be paid to contractors until the work passed inspection and, in addition, the work was contemporaneously inspected by the City of Milwaukee Building Inspection Office. Your cover letter puts SCO in a false light.

Your comment that "SCO was helpful in the conduct of the audit, but did not provide some requested documentation" likewise puts SCO in a false light. SCO volunteered all of its records for your auditor. If you disagree, I would appreciate knowing from you what exactly your office is claiming was withheld. In addition, although SCO was under no obligation to do this, SCO requested and obtained from Fusion Design copies of Fusion Design's records and volunteered them to the Comptroller's office.

Tri-Corp Housing and South Community Organization have an excellent record in producing and rehabilitating low income housing in this community. The draft audit is designed to hurt our reputation. I suspect that you, of all people, can appreciate the impact of allegations of fraud in the press, having yourself just been the focus of a newspaper article appearing in the Milwaukee Journal Sentinel. On October 29, 2005, the Milwaukee Journal Sentinel reported that you made misrepresentations to a doctor to induce him to buy your house which had a concealed water and mold problem. You must have felt that this impacted your standing in the community, although the article made it clear that the information came from a court complaint that has yet to go to trial. We believe that your audit report will be publicized, and our reputation will be injured by its publication, particularly because of vague assertions such as that the auditor determined that there was "potential fraud", without identifying who is being accused.

Turning to the specific sections of your draft audit report, I would like you to consider and correct the following:

**1. Scope and Objectives.**

This section begins with the statement that the Westside Housing Cooperative Property Rehabilitation Project was subcontracted to the South Community Organization, which is one of the non-profit agencies merged to form Tri-Corp Housing, Inc. There is no such subcontract between WHC and SCO. If the auditor is referring to some agreement that I am unaware of, I would appreciate seeing it.

Next, this section refers to questions raised by Alderman Robert Bauman, including "was the work that SCO was reimbursed actually performed?" This question is referenced with a quoted letter by Alderman Bauman where he states that he is "personally familiar" with the situation. Quoting Alderman Bauman in this fashion is highly misleading to anyone who reads this draft report.

SCO received absolutely no reimbursements, and in fact, no money whatsoever in connection with these properties. The money flowed from the City of Milwaukee to the Westside Housing Cooperative and private contractors via a disbursing agent, Chicago Title. This and other sections of the draft audit report indicates that SCO was the recipient of CBGA funds, despite the fact that the documentation you have shows that this is not true. In fact, whoever prepared this draft (who I assume is Jim Michalski) has gone so far as to prepare an "organizational chart" which suggests that SCO received and disbursed money when that is not the case.

While your cover letter claims that "SCO's contractors charged excessive prices for repair work and apparently billed for some work not performed" your audit makes no mention of interviewing Apex Design and General Contracting, Inc. or Fusion Design and Professionals, Inc., the contractors for this work, or any of their subcontractors. I would think that it would be normal practice in conducting an impartial audit to seek some explanation from the contractor and the subcontractors before coming to the conclusion that they are overcharging. From what we have learned, this was not done. Perhaps this would add not only valuable, but necessary information to a full and complete audit report.

## **2. Organization and Fiscal Impact.**

Your report states that beginning in 2000 and continuing through 2003, South Community Organization provided administrative services to the Westside Housing Cooperative under contract. It makes no mention of the fact that Westside Housing Cooperative continued to have its own board of directors and elected officers or that Westside Housing Cooperative was an agency in serious trouble or to give any deference to how our agency first became involved with Westside Housing Cooperative.

SCO's work with the Westside Housing Cooperative dates back to 1999 when Westside was on the brink of bankruptcy, in default on its loans with its lenders, including M&I Bank, TCF Bank, Interbay, WHEDA, and the Milwaukee County HOLF program, in default on the payment of its property taxes, and obliged to pay approximately \$30,000 in fines for building code violations. SCO, which had no prior relationship with Westside, was asked by Westside's lenders, Alderman Henningsen, Municipal Judge Gramling, and others to assist in the management of this troubled agency. SCO did not replace Westside's board of directors; rather it entered into a contract to hopefully translate its own success in low-income housing rehabilitation into assistance for Westside's board. When SCO began its work, the City of Milwaukee had over \$10 million invested in Westside's 283 housing units, which were subject to foreclosure and at risk of becoming board-ups.

From 2000 forward, SCO assisted in the improvement and orderly sale of 233 of the original 283 units. Of the units sold, 115 went to low-income owner occupants and "buy in your neighborhood" investors. In fact, SCO wrote a grant for and obtained a grant for Federal Home Loan Bank funds, which in turn enabled 14 low-income families to

become first time home buyers when they acquired 14 of these properties. By November 30, 2003, Westside's portfolio was reduced to 50 units without any foreclosure actions, all property taxes were current, and there were no outstanding fines for building code violations. On Westside's behalf, SCO applied to and obtained a grant from LISC to complete an audit of Westside's books, so that Westside could, among other things, file tax returns, which had not been filed since 1997.

It is misleading to title this report "Audit of the Westside Housing Cooperative Property Rehabilitation Project" when the only focus is and has been a contract to perform repairs on nine properties under a HOME grant issued to Westside Housing Cooperative. Nothing is said about the many other properties successfully addressed with South Community Organization's assistance. The draft audit report states at Page 3 "SCO's overall accomplishments were not within the scope of this audit and therefore were not evaluated." Therefore, to suggest that this is an overall evaluation of SCO's work with the Westside Housing Cooperative is highly misleading.

The draft report correctly states that South Community Organization's executive director asked the Community Block Grant Administration to fund rehabilitation of some of Westside Housing Cooperative's properties on August 6, 2001.

[Exhibit 3] The omitted information is that this request was made on behalf of Westside Housing Cooperative because Westside Housing Cooperative had let these properties made the subject of the grant application fall into disrepair. The object was to put these properties back on the market. The draft report states that "on July 25, 2002, SCO executed the grant contract on behalf of WHC." Read in the context of other statements found in the draft audit report, and in particular "SCO subcontract of the repair work" and "at the conclusion of SCO's work", anyone reading this report would assume that SCO was the recipient of these funds, when that was not the case.

The \$500,000 Federal Home Grant was awarded to Westside Housing Cooperative. [Exhibit 4] Westside Housing Cooperative entered into subcontracts for the repair work with Apex Design and General Contracting, Inc. and Fusion Design and Professionals, Inc. The Community Block Grant Administration administered the contract and dealt directly with Apex and Fusion Design, as did Chicago Title Insurance Company. The money flowed from the Community Block Grant Administration, to Chicago Title, and then to either Apex Design or Fusion Design. None of the money passed through South Community Organization. In fact, it should be noted that the Community Block Grant Administration rejected the idea of having SCO become the general contractor (using its own employees). On April 24, 2000, the City Block Grant Director, Juanita Hawkins, sent South Community Organization a letter, referencing a legal opinion she received from the City Attorney's office, instructing SCO that it could not allow any of its staff to do any management or oversight of the construction work, and warning that SCO's own contracts for HOME and block grant funds could be terminated if it did so [See Exhibit 5].



### **3. Audit Conclusions and Recommendations.**

The draft audit prepared by your office does not address the context of the consulting agreement between SCO and WHC with the line: "SCO's overall accomplishments were not within the scope of this audit and therefore were not evaluated."

It is misleading to disregard the context. SCO offered assistance to WHC under a plan adopted by the WHC Board of Directors, and supported by WHC's lenders, the Community Block Grant Administration, and the Department of Neighborhood Services. SCO has provided ample documentation to the Comptrollers Office that representatives of DNS viewed this project as an opportunity to eliminate code violations on properties that were in Municipal Court with fines, interest and penalties that seemed impossible to resolve. The Wisconsin Housing and Economic Development Authority, as well as M&I Bank, viewed this project as part of an overall strategy to reduce their exposure on the Westside portfolio. SCO supplied your office with documentation to this effect, and SCO's staff asked that representatives of DNS, WHEDA and M&I be contacted as part of the audit. Apparently, this was disregarded because the draft audit report does not refer to either the information we furnished or the results of your contacting representatives of DNS, WHEDA or M&I.

On page 4 of the audit, you state that "The concerns raised by Alderman Bauman were confirmed by this audit." How can this be so?

On page 2 of the draft report, you quote Alderman Bauman as indicating that his first concern was: "was the work for which SCO was reimbursed actually performed." However, SCO was never reimbursed for anything; it did not receive any of the HOME funds. SCO was never in the chain of cash flow for the project. Funds went from the Comptroller's Office, to Chicago Title Insurance, to Apex or Fusion Design. SCO never received, nor solicited any funds from or through this project. To characterize Alderman Bauman's concerns as being substantiated in this regard is a misstatement of fact.

On page 2 of the draft report you quote Alderman Bauman as indicating that "properties rehabbed with federal HOME Funds can not be sold to absentee investor-owners." Yet on page 7 of your own report, you state that "both CBGA and NIDC assert that HOME grant regulations do not require that properties be sold to owner occupants, only that the tenants be low/moderate incomes." To characterize Alderman Bauman's concerns as being substantiated in this regard is a misstatement of fact.

On page 4, you state that "there is potential fraud in the WHC project" and in the context of that remark, note that "SCO was derelict" and "SCO's contractors... apparently billed for some work not performed." Again, are you pandering to Alderman Bauman?

SCO, a non-profit agency, had no economic incentive to become involved with WHC's efforts to rehab properties with HOME funds. Before the HOME funds at issue were

even envisioned, WHC entered into a contract with SCO, effective February 1, 2000, where SCO agreed to provide five staff individuals, plus oversight, provide WHC with property management, asset management, accounting and personnel management for a period of twelve months. WHC agreed to pay SCO a fee of \$13,050 per month, plus an incentive fee measured as a small percentage of the rent collected depending on the rents collected when measured against gross potential rent. WHC reserved the right to terminate the contract on thirty days' notice to SCO. A year later, the contract was renewed on similar terms. SCO's compensation did not change, and was not expected to change, when CBGA approved \$500,000 in HOME funds for WHC. In fact, as the number of properties owned by WHC decreased, SCO voluntarily decreased the monthly fee it charged WHC.

By contrast, Chicago Title Insurance Company was paid to perform inspection services. On July 26, 2002, WHC, CBGA, and Chicago Title Insurance Company entered into an "Escrow Fund Disbursing Agreement." [Exhibit 6] (On page 8, the draft audit report states that Chicago Title received \$6,885 for serving as escrow agent.) The agreement stated that each property rehabbed with HOME funds would be treated as a "separate Project" with a separate escrow of construction funds to be managed by Chicago Title. As part of the agreement, Chicago Title agreed "to retain an Inspector on behalf of the City to conduct inspections for the purpose of determining whether work on each Project has been completed." The agreement also states: "The Title Company assumes full liability for all of its acts and omissions in the performance of this contract. The Title Company agrees to be legally liable for loss including theft, misallocation of funds, and errors due to the Title Company's negligence in the handling of funds hereunder."

Yet it appears that the aim of the audit report is to create the impression that SCO was "derelict" and even responsible for some "potential fraud," whatever that means.

#### **A. Compliance with Grant Regulations and Contracts**

On page 4 of your audit, you state that SCO indicated a "blatant disregard" for grant regulations by (1) failing to reduce lead paint hazards and correct all building code violations and (2) failing to comply with requirements on tenant income and rent restrictions. The draft audit report fails to detail where the "blatant disregard" is shown, and in fact, tends to show that the author made no serious effort to determine the truth.

##### **(1) Lead-based paint; code violations.**

The draft audit report states at page 4 that "SCO and its contractors did not comply with grant regulations and contract requirements to reduce lead-paint hazards and to correct all building code violations for the WHC properties." This is work which would have been done had WHC, working with SCO, been permitted to complete this project.

The initial focus of this rehab work was on the exterior of the houses involved. When this project was first envisioned, everyone including the alderman and the CBGA office thought it of primary importance to stop the potential of neighborhood deterioration by improving the exterior appearances of the houses to be rehabbed. The thought was that a board-up in the neighborhood can create a kind of cancer which experience shows will spread to neighboring houses.

With that thought in mind, the initial scopes of work for the projects, approved by the CBGA office over a year before the work was done, in some instances only budgeted for exterior work. Only 3 of the 9 properties had anything budgeted for interior work. SCO did not make the decision to leave lead abatement out of the budget in these instances. The scope of work for these properties was negotiated between the contractors involved, Apex and Fusion, and the CBGA office.

At a later point in time, when Robert Bauman became alderman for the district, the good working relationship between SCO and the CBGA office seemed to come to an end. In the past, the typical resolution of a building code or lead paint issue would be to estimate the cost of repair and solve the problem, applying for funding if necessary. Here, as is noted in the audit report, there was \$53,673 left in the \$500,000 HOME grant, which would have sufficed to address the building code and lead paint issues raised by the audit. This, however, did not suit the then current political agenda. Instead, SCO was instructed that it could not undertake more work at the houses made the subject of this grant and that the Building Inspection Department would no longer respond to its requests for certificates of code compliance. This process dovetailed with Alderman Bauman's successful effort to eliminate SCO's own million dollars in HOME funding for its own low income housing projects for the upcoming fiscal year.

During all of this, there was one very unusual episode that occurred in 2004 and which was recorded in the draft audit report. The draft audit report states at page 6 that "in June 2004, the Common Council awarded an additional \$100,000 in HOME Funds to SCO for completion of the Code Compliance work." What is odd about this is that SCO never applied for this additional \$100,000 in HOME Funds. SCO has heard, but is unable to state with certainty, that the Community Block Grant Director applied for this funding, indicating that the application was coming from SCO. All we can state with certainty is that SCO neither applied for, nor was aware of the availability of these extra funds even after they were awarded. When SCO learned that this \$100,000 in funding had been awarded, SCO's executive director informed CBGA that it would not accept the funds, and conversely, expressed a willingness to correct noted code violations and lead paint issues with the approximately \$50,000 already remaining in the grant money. SCO can document through extensive emails with CBGA staff during the 2004 program year, that it believed that the remaining grant money would suffice.

We are still at a loss to explain how it was that a \$100,000 grant application could be submitted on behalf of SCO without SCO knowing about it. Your staff is aware of this

situation. Yet there has been apparently no effort to review the matter in connection with this audit.

This section of the report misleads the reader into believing that SCO was uncooperative in furnishing information requested in connection with this audit. On page 5, the draft audit report states that "Copies of the Apex construction contract and subcontracts were requested but not provided by SCO." This particular negative remark seems way out of line. Mr. Michalski was given copies of the Apex contracts with WHC (again, WHC was the contracting party) and this seems to be what he refers to in the draft report as the "Apex construction contract." The "subcontracts" he refers to would be contracts which Apex in turn made with any subcontractors.

As Mr. Michalski knows, neither SCO nor WHC is the record keeper for Apex's contracts with its subcontractors. To expedite the audit and, frankly, do work which would otherwise fall to Mr. Michalski, SCO's executive director asked Joey Korom of Fusion to provide a copy of his files for the audit, and Mr. Korom complied. SCO similarly attempted to contract Fred Correa of Apex to obtain a copy of Apex's file but did not succeed.

Your staff, and in particular, Jim Michalski was given what information SCO had as to how to contact Apex. It does not appear that he tried to make that contact, but it would seem that this would be his job (in conducting an audit), and not SCO's job. Clearly, over the course of this investigation, SCO made all of its own records available for inspection, provided the Comptroller's Office with reams of photocopying, and went beyond this to assist the Comptroller's Office in obtaining the files of Fusion. To now falsely state that SCO did not provide a copy of the Apex contract and characterize the lack of submission of Apex subcontracts as a refusal to produce information on SCO's part, is another clear indication that the only purpose of this audit is to discredit SCO.

On page 5, the draft audit report also states that the "audit indicates that SCO may have attempted to mislead the City about the Code Compliance status of the WHC properties." What information supports this remark? SCO facilitated the initial inspection of properties by Mr. Mahan of the Block Grant Administration in early December 2003, SCO facilitated the inspection of properties by Mr. Garry Werra and a representative of DNS in mid December 2003, and SCO facilitated the inspection of every unit in February 2004 by representatives of DNS and CBGA. The documentation which SCO submitted supports these facts. What documentation supports Mr. Michalski's statement in the draft audit report?

On page 5 the draft audit report states that "SCO requested and received Certificates of Exterior Code Compliance on 5 properties, rather than certificates of interior and exterior code compliance." Please note that there is only one variety of code compliance certificate issued by the City of Milwaukee Department of Neighborhood Services. The draft audit report incorrectly states that DNS issues two varieties, and that is not the case. Remarks such as these demonstrate a reckless indifference to the facts and bias in this

audit. Mr. Michalski uses this incorrect assumption (that there is more than one kind of certificate) to arrive at the conclusion that SCO sought to circumvent HOME Funds regulations by seeking some inferior type of certificate from DNS.

Along the same line of attack, the draft audit report states at page 6: "Also in correspondence, the SCO Director equivocated on the issue of code compliance." There is no way to tell what correspondence Mr. Michalski is referring to. We ask that the Comptroller's Office identify this correspondence and explain this remark.

**(2) Tenant income and rent restrictions.**

The disposition of the rehabbed homes satisfied "low income" requirements. This was the status of the properties at the end of SCO's service contract with WHC:

- 1232 N. 22nd Street was sold to Tenita Gladney. Ms. Gladney purchased the property utilizing an American Dream mortgage which utilized similar income restrictions as the HOME Funds. Clearly she was eligible and the documentation will be found in the WHC records.
- 1335 N. 25th Street was sold to Stanley Cobb. Mr. Cobb was a long time member of the Westside Housing Cooperative having lived at 1128 N. 25th prior to the purchase of this house. His income documentation is in the WHC files.
- 1323 N. 25th Street is still owned by Westside.
- 2902 W. Juneau is still owned by Westside.
- 1443 N. 24th Street is still owned by Westside.
- 1139 N. 21st Street was sold to Skip Schroedel, a long time member of the Westside Housing Cooperative. His income documentation would be in the WHC files. Mr. Schroedel also received downpayment assistance grants from the federal Home Loan Bank to facilitate his purchase. Income guidelines for this program are the same as for the HOME program.
- 1303 N. 25th Street was sold to Garfield Plunkett, an investor, in May 2004, 5 months after SCO ended its relationship with WHC.
- 1229 N. 33rd Street was sold to Garfield Plunkett, an investor. Mr. Plunkett was informed of income restrictions for tenants. Records would be in the WHC files. Nicole Walker, the tenant in the building at the time of the sale to Garfield Plunkett, was on rent assistance and clearly a client that was income eligible for assistance through HOME Funds.

- 3207 W. McKinley was sold to Lukie Christie, an investor. Ms. Christie was informed of income restrictions on tenants. Records would be in the WHC files. Laquita Funches was the tenant in the property at the time of the sale to Lukie Christie and she was on rent assistance. Clearly Ms. Funches was income eligible to be a recipient of services through HOME Funds assistance.

On page 6, the draft audit report states, that "despite requests by CBGA and the Office of the Comptroller, the required income documentation has not been submitted." Requested of whom? We would like to see documentation of the request.

Your staff was advised that WHC kept the income eligibility records relating to these properties after its contract with SCO came to an end. We know that all the sales were expedited using proper HOME Funds income guidelines. Mr. Michalski was advised that to get the relevant records he would have to contact WHC. He was given appropriate contact information for the Westside Housing Cooperative. Did he follow through with this? We do not think so.

SCO explained to staff of the Comptroller's Office that its relationship with WHC was strained at best, and that any measure of cooperation would require the inquiry to come from the Comptroller's Office. SCO asked for documentation as to what efforts were made by the Comptroller's Office staff to obtain these records from WHC but received none.

On page 6 of the draft audit report it states, referring to the grant: "the Contractor [WHC] agrees to conduct annual income recertifications. The Contractor will provide documentation... Annual Rent Reviews... These rent reviews will certify that the rents charged are within allowable program limits." Here the draft audit report correctly refers to WHC as the "Contractor." WHC was the recipient of the HOME funds, SCO no longer provides WHC with services, and if there is a deficiency in ongoing reporting, this should be addressed with WHC. It does not appear that anyone from WHC was even contacted by the Comptroller's Office. Nor does it appear that inquiry was made as to what if any efforts have been made by CBGA to enforce this annual reporting requirement against WHC.

Finally, on page 6, the draft audit report states that "NIDC contacts with some of the new owners indicate that the grant requirements for tenant income and rent affordability were not incorporated into the property sales by SCO." We do not know what this means and therefore cannot respond to the statement. We request to see the documentation of the interviews conducted by NIDC staff of the new owners which support this conclusion.

## **B. Rehabilitation Costs and Work**

On page 7, the draft audit report states that "SCO's contractors appear to have charged excessive prices for their repair work and to have been paid for work not performed or performed properly" and again mentions "potential fraud." The only "potential fraud" we

think exists would have been committed by the City employee who recently authorized payment of \$10,952.00 to tear off and replace a perfectly good roof at 1232-34 North 22<sup>nd</sup> Street.

This property, 1232-34 North 22<sup>nd</sup> Street, is the first property listed in the table compiled at page 7 of the draft audit report, which purports to show overpayments to the contractor involved, Apex. The draft audit report states at page 9 that "the audit also indicates that APEX overcharged for substandard roofing at 1232-34 North 22<sup>nd</sup> Street." It goes on to state that while the contractor was paid for a "roofing tear off" at the time of the audit (September, 2005) "three layers of shingles exist and must be replaced at a cost of \$10,952.00."

In the course of addressing this draft audit report our executive director hired a roofing contractor to inspect the work at 1232-34 North 22<sup>nd</sup> Street. When the roofing contractor arrived at the site, he called our executive director to report that at the same time he was inspecting the house, a roofing contractor hired by the City was engaged in removing the roof. He also told our executive director that there was only one layer of shingles on the house, meaning that there had been a proper roof "tear off" and, in other words, the statement made in the City's draft audit was patently false. In fact, the roofer tearing off the roof confirmed that there was only one layer of shingles on the roof that he was hired by the City to tear off.

As I stated to you in my letter of October 21, 2005, our executive director contacted Jim Michalski, who appears to be in charge of your audit, and after extensive argument, Mr. Michalski came to 1232 North 22<sup>nd</sup> Street. I would have expected, frankly, Mr. Michalski to be embarrassed in this situation. Apparently, Mr. Michalski's response was that he was only relying upon the reports of others, which on reflection means that the City Comptroller's Office is really not conducting any sort of independent review of the facts.

In correspondence regarding this matter I sent to your office, the City Attorney's office and the District Attorney's office, I asked that this matter be investigated. We do not know whether any effort has been made in this respect; we have not heard of any.

This underscores a very serious deficiency in your audit process. Before reporting "work not performed" has your staff even attempted to contact the contractors being accused in this matter, who are labeled with that bias typical to this draft audit report as "SCO's contractors?" We do not believe that this has been done.

Moreover, every aspect of this work, including contract bidding and oversight, was performed in conformance with CBGA guidelines and/or with CBGA knowledge and consent. Apex or Fusion Design presented construction budgets to CBGA before undertaking any work, and every bill for work performed conformed with the budget approved by CBGA staff.

On page 7, the draft audit report states that "based on NIDC estimates, the contractors were paid over a quarter million dollars more than the value of their work." It was NIDC that advised you there were three layers of roof on 1232-34 North 22<sup>nd</sup> Street that still needed to be torn off, when the physical facts proved otherwise. NIDC's alleged overpayment to the contractors includes this assumption. So why then does the Comptroller's Office accept NIDC's statements as the truth? Is it even proper audit procedure to let NIDC *de facto* become the auditor?

- NIDC is a part of City government under the direction of the Department of City Development. It is a separate corporation, but its directors are all City employees. The only reason it is set up as a corporation is so that the City can use HOME funds coming from the federal government. It seems misleading to suggest that NIDC is an objective, disinterested third party in this audit.
- NIDC is a competitor of SCO as a subgrantee of CBGA. Arguably any loss of grant funds by SCO, as a result of negative perceptions created by this audit, represents a potential gain for NIDC.
- NIDC has been assigned a role in completing the Westside rehab efforts by the Community Block Grant Administration. NIDC is certainly motivated to criticize Apex and Fusion because that tends to emphasize the need for its services, perhaps even including the need to replace a roof that clearly does not need replacement.

There are a myriad of issues with respect to the information coming from NIDC, which apparently without even the most simple and cursory review, now becomes the audit report of the City Comptroller's Office. The audit states that \$12,615 was spent for "construction of a new rear porch that was not done." In point of fact, photos taken by Fusion Design and included in the feasibility setup for this project reveal that a new porch does in fact exist on this house and it was installed by Kent Construction. Documentation provided to the Comptrollers Office further demonstrates that substantial alterations to the budget and the scope were implemented because of a rotted roof structure overhanging the front porch. This required a complete replacement of the front façade of the building and is substantiated by photos taken by Fusion Design and included in the feasibility setup for this project.

The audit also claims on page 8 that "substandard roof was done without a tear-off." We interviewed the subcontractor who worked on this house. No tear-off took place and no new roof was installed because a decision was made to substitute work on the front façade of the building for the roof work, because the front façade collapsed as the work began and the roof had at least 5 years of life left in it.

The audit further states on page 8 that "concrete steps and installation of railings and glass block windows were apparently not completed" at 1229 N. 33rd Street. We are uncertain whether the audit claims the glass block windows and railings were complete or



not based on this statement. The term "apparently" casts considerable doubt on the author's ability to state with any certainty whether or not this is an issue. We do not dispute that glass block windows do not exist, but we note that every basement window has been newly boarded, caulked, and painted to the trim colors of the house. DNS inspectors will attest that this is an acceptable alternative to glass block windows. Based on these facts, we point out that the statements pertaining to this house are misstatements of fact.

Page 8 and page 9 of the audit refer to statements made by an anonymous "former Fusion partner" alleging improprieties on the part of Fusion. While the draft audit report never states that allegations were placed against SCO or WHC by this undisclosed source, Fusion is continually referred to as "SCO's contractor." Who is this person? And doesn't it appear to be somewhat irresponsible to state something like this in an audit report when your staff has not contacted any representatives of Fusion?

The draft audit report also states on page 9 that "CBGA states that it contacted the Office of the Inspector General for the US Department of Housing and Urban Development HUD after receiving these allegations." If a statement with condemnatory implications such as this is inserted in the audit, shouldn't the audit also state what if anything the Office of the Inspector General did based on these allegations? Were any investigations started as a result of these statements. If so, what is the status of those investigations, and if not, why is that fact not stated?

The draft audit report states at page 9 that "SCO shares primary responsibility for the improper billings and inadequate performance by its contractors." Who is SCO sharing with? The audit does not make such a statement about any other entity.

The draft audit report suggestively states at page 9 that "according to SCO, Fusion and Apex companies were owned by former SCO employees." The fact that Fusion and Apex were owned by former SCO employees was disclosed to the CBGA in letters to the CBGA seeking guidance on the matter before Mr. Korom contracted with WHC for the work. Contrary to being seen as an issue by CBGA staff, the hiring of Mr. Korom's company was viewed as a solution to a capacity issue under discussion between CBGA and SCO. Essentially, CBGA was concerned that the four housing producers used by SCO on its own projects would be stretched too thin were they to undertake management of WHC's project in addition to SCO's ongoing projects.

It should also be noted that SCO was instructed by CBGA, based on a legal opinion issued by the City Attorney's Office, that it could not use its staff to administer WHC projects. We also point out that the WHC, HOME Funds contract contained no administration funds, and therefore, WHC could not hire its own staff to fulfill the oversight function of the project.

On page 9 the audit states that "SCO's Executive Director countersigned the draw requests to Chicago Title." This does not alter the fact repeated misstated in the audit

report that the contracting party was WHC, and not SCO. The draw requests were countersigned by WHC, although it is quite obvious SCO's executive director is the same person as WHC's authorized agent. Our concern is the continued inference found in the draft audit report that SCO handled the HOME funds. As has already been stated above, SCO did not handle the funds, nor did it receive a special fee for assisting WHC with respect to the HOME funds.

On page 9 the draft audit report states that "the CBGA director wrote the SCO Executive Director stating, it appears as if you have administered no oversight with the use of HOME funds allocated to this project." Is this the agency that just authorized spending \$10,952.00 to have the newly installed roof torn off and replaced just this last week? Other than clarifying that CBGA would like to pass the buck on this matter, what is the purpose of including such self-serving statements?

### **C. City Administration and Monitoring**

This section of the audit report begins by noting that over a quarter million dollars was wasted on this project (by NIDC's count), and that CBGA is to be credited for its "persevering to ultimately gain access to the subject properties to identify deficiencies", whatever that means. By contrast, the draft audit report states at page 10 that "SCO and WHC failed to properly manage or oversee their subcontractors. In fact, in the case of SCO, the organization took efforts to avoid basic accountability for its own organization and that of its subcontractors".

One might conclude that there is some bias here.

This section of the draft audit report repeats much of the same misinformation addressed earlier in the report, such as where it states that SCO, rather than WHC, was the entity signing contracts, or where it implies that SCO received the money. On Page 12, the draft audit report goes so far as to state that "WHC subcontracted with the South Community Organization to repair the properties, as well as provide other services" when the documents you have show otherwise. Those sorts of misstatements have already been addressed in this letter.

This section of the draft audit report, in its portrayal of the CBGA "persevering" for a chance to look at these nine properties is a new twist. A series of over 40 emails and letters transmitted between SCO staff and CBGA staff demonstrate that SCO was responsible for gaining access to these owner-occupied properties to define the code deficiencies not at issue. This information was summarized in a letter SCO's executive director sent to you on November 23, 2004. [Exhibit 7] So far as we know, the Comptroller's Office never bothered to review copies of these emails and letters.

The statement at page 11 of the draft audit report that "CBGA initially recommended additional funding for SCO, before the deficiencies and contractor performance had been thoroughly investigated [and] CBGA stopped further Project funding for WHC and SCO

only after an Aldermanic request to do so" is just plain fantasy. We discussed the very unusual fact that someone in the City applied for \$100,000 in funding for SCO without SCO knowing about it. Would it not be a simple matter for you to obtain and examine the documentation involved to verify whether this is accurate?

Furthermore, every unit of housing had been inspected during the months of February and March 2004, by SCO staff, DNS inspectors, and CBGA staff. By March 8th, John Kaye of our staff notified Garry Werra of the Block Grant office via email that we had received all work orders pertaining to WHC houses. On April 15th of 2004, SCO staff submitted amended scopes and setup budgets for all WHC houses. On April 21, 2004 via email Garry Werra of CBGA notified SCO staff that setup amendments had been approved. The mystery CBGA request for additional funding came well after every house had been thoroughly investigated.

And there is no explanation of why CBGA applied for \$100,000. On April 21, 2004, CBGA approve setup amendments which demonstrated that the cost to return 8 homes to full code compliance and lead safe status was less than \$50,000, not the \$87,165 quoted by NIDC in this audit.

All this aside and objectively speaking, this is the sequence of events:

- The properties to be rehabbed with HOME funds were selected by consensus among DNS, WHEDA, M&I Bank, and the board of Westside Housing Cooperative. SCO was not asked to make that determination.
- After the properties were selected, SCO asked an outside contractor to prepare a scope of work and construction budget for each of the properties. The scopes of work and budgets were submitted to CBGA for approval and approved by CBGA before any work began.
- CBGA distributed the HOME funds for the work. The party contracting with CBGA was WHC, and the recipient of the HOME funds was WHC. SCO was not a party to and did not benefit from any of these contracts.
- WHC entered into contracts with Apex and later, Fusion. SCO was authorized to act as WHC's agent in arranging these contracts.
- Apex and later, Fusion, rehabbed the properties. Both of the companies did the work within the budgets approved by CBGA.
- Apex and later, Fusion entered into various contracts with subcontractors, and these contractors remain responsible for the workmanship.

- As the work progressed, Apex and later, Fusion submitted draw requests, which were monitored by Chicago Title Insurance Company. Chicago Title disbursed the Home funds directly to the contractors.
- The City of Milwaukee Department of Neighborhood Services inspected the properties as they were being completed, and issued certificates of code compliance for five of the nine of them.
- The CBGA office interrupted and precluded WHC, Fusion and SCO from completing the work.
- When SCO's involvement was terminated, there was \$53,673 left in the \$500,000 HOME grant, which SCO believed was sufficient to cure reported code violation and lead paint issues.
- CBGA has had NIDC working on the properties in question.

Here are some of our general observations:

With the benefit of 20-20 hindsight, anyone can argue that Fusion made too much money for its work. But it is false for the City to first approve the budgets, and then later claim that amounts approved were too much money.

In fact, their contracts contain warranties. What seems incredible about this entire discussion is that the City has never asked that either contractor satisfy its warranty obligations. Instead, the City's reaction was to preclude these contractors from completing any work, and to spend money on others, perhaps just to prove some undefined point.

#### **D. Recommendations**

Obviously our main concern is with the misstatements found in the audit report, but hope springs eternal that something constructive can be accomplished.

##### **Recommendation 1: DNS prepares work specifications.**

This is certainly an idea warranting consideration. It certainly seems reasonable to have producers utilizing HOME funds to all competitively bid for projects such as these. But why make a special exception for the City's own Neighborhood Improvement Development Corporation? The explanation offered is that NIDC has "an experienced staff" and therefore could continue to prepare scopes of work and budgets for their own projects. But other producers have experienced staffs as well. And they, like others, subcontract their work to private contractors. In fact, in years past "community activist" Roseann Mathias has been a recipient of CBGA funding, through contracts with NIDC.

Why not give NIDC a budget and let it compete with non-profits and other private competitors? Surely with its demonstrated ability to shave a quarter million dollars off the cost of a project, NIDC would inspire healthy competition and overall improvement in the industry.

**Recommendation 2: DNS should inspect completed work.**

This is a good idea. We thought that they already did this when they issued certificates of code compliance.

**Recommendation 3: HOME projects should be administered more directly.**

This recommendation is unclear. The relationships of the parties involved in this audit are not as complicated as portrayed on Exhibit 2 to the draft audit report, which is factually inaccurate. Here, HOME funds were awarded to WHC, and WHC entered into contracts with first Apex and then Fusion. (There was a time when WHC might have contracted with SCO to do the work of Apex and Fusion, but CBGA advised SCO, apparently based on an opinion from the City Attorney's office, that SCO could not be the contractor.) Whoever drafted Exhibit 2 portrays SCO as a contractor, and that is not supported by the documentation you have. We have prepared two documents which show the actual relationships and flow of cash. [See Exhibits 8 and 9.]

If the recommendation means that Apex and Fusion should have had fewer subcontractors, there is really no explanation of why this would make sense. Subcontractors typically specialize in aspects of construction, such as roofing, plumbing and electrical, and it is unrealistic to think that the average general contractor can or will undertake work if he is limited in his use of subcontractors.

**Recommendation 4: Timely public disclosure.**

Timely public disclosure is not a bad idea, if it is not all one-sided. If your office issues an audit report along the lines of the draft you have sent to us, you will commit a gross disservice to the non-profit community and the people who volunteer their time to non-profit agencies. There are so many misstatements in this report, that it is, in a word, slanderous.

Conversely, nearly two weeks have gone by since I reported to you that someone in the City committed a gross waste of taxpayer money by authorizing the expenditure of \$10,952.00 to have a newly installed roof torn off and replaced. You have a web site which encourages the reporting of misuse of public money. Yet I have not seen any "public disclosure" of the misuse of this public money. I do not even have any indication that the matter is being investigated.

**Recommendation 5: City Attorney should consider litigation.**

As a lawyer, I would certainly never reject the prospect of litigation. But this particular recommendation is lacking in detail. And it does seem to suggest that everyone except the City is responsible for something.

The recommendation states that you would like the City Attorney to consider litigation over "improper billing." I assume this means that you think it appropriate to sue Apex and Fusion. Would it not then make sense to speak with these contractors regarding their billing before making that recommendation. As noted above, these contractors gave warranties as part of their contract. Unfortunately, as we see it, the City has never asked these contractors to address warranty items, and to the contrary, has prevented them from addressing warranty issues.

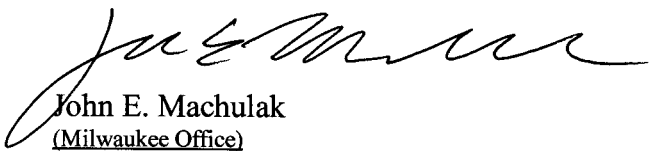
**Closing Summary:**

The draft audit report you have sent us is replete with inaccuracies which you can correct by having your staff review information they gathered during the audit process. There are, however, a number of instances where our ability to respond is handicapped by not having a clear explanation of statements made in the draft report, or by not having the information which purportedly substantiates the statement.

As noted at the outset, our volunteer finance committee very much welcomes the opportunity to meet with you. Our committee includes Joe Henika, Treasurer of the City of Cudahy, who has strong expertise in the area of audits such as this.

Again, please advise whether it would be possible to meet on November 22 or November 23.

Very truly yours,



John E. Machulak  
(Milwaukee Office)

JEM:emk

cc: South Community Organization



W. Martin Morics, C.P.A.  
Comptroller

John M. Egan, C.P.A.  
Special Deputy Comptroller

Michael J. Daun  
Special Deputy Comptroller

Office of the Comptroller

October 8, 2004

Ref: Revenue & Cost Division

Mr. Michael Brever  
Westside Housing Cooperative  
1635 South 8<sup>th</sup> Street  
Milwaukee, WI 53204

Dear Mr. Brever:

Re: Fiscal Site Review of Westside  
Housing Cooperative  
CDBG Home Program

We have reviewed the records of Westside Housing Cooperative for the months of November 2002 to January 2004. Our review included tests of the canceled checks and invoices reimbursed by the City and other review procedures as we considered necessary under the circumstances. The costs incurred by Westside Housing Cooperative were reviewed with the provisions of the Home contract.

Based on our review, nothing came to our attention to cause us to believe that the costs claimed for the months of November 2002 to January 2004, were not eligible under the contracts.

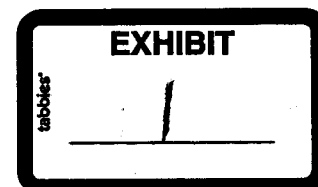
If you have any questions, please call Estela C. Prust at 286-2517.

Very truly yours,



W. MARTIN MORICS  
Comptroller

WMM:ECP:ecp  
cc: Mr. Steven Mahan - CBGA  
Ref: 04FSR16AAA



From: Michael Deun  
To: Bauman, Robert  
Date: 10/28/2004 5:00:48 PM  
Subject: RE: West Side Housing Coop

Ald. Bauman,

At Wally's request, I'm responding to your email of Oct 27th to him requesting our follow-up on this topic as well as your earlier August 5th letter. I apologize for the lateness of our response as we were awaiting the response of the CDBG Agency director.

On August 12th, we wrote a letter to the Director of the CDBG Agency, requesting information evidencing what the CDBG Agency had done over the prior 12 months to address the above issues for this WHC project. We followed up with an extensive interview with the Director and his staff on August 17th. On August 23rd, we received documentation from the Director related to this project.

The interview disclosed that \$500,000 in CDBG-HOME funds were awarded to WHC in late 2002 for the purpose of rehabilitating the above properties, with the South Community Organization (SCO) apparently specified by the Council Committee to perform the actual rehab work. The CDBG Agency supported this proposal. According to the CDBG Agency staff, months were required for WHC to develop the appropriate scopes-of-work for the subject properties before actual work on the properties began in early-to-mid 2003.

The documentation to us from the CDBG Agency Director on August 23rd contained various communications between the CDBG Agency and the South Community Organization and its Director, Mr. Michael Brewer. This documentation also included CDBG Agency communications with the Department of Neighborhood Services (DNS) dealing with DNS inspections of the properties for building code compliance.

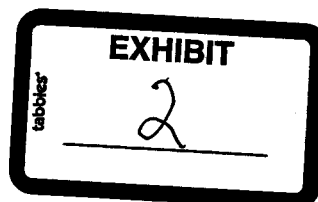
This CDBG Agency-provided documentation covered the period from October 31st, 2003 through January 26, 2004. It clearly documents the existence of major interior code violations discovered on the subject properties once the CDBG Agency monitor was able to gain entrance to the properties.

The documentation demonstrates the successful efforts made by the CDBG Agency during October 2003 through January 2004 to initially inspect the properties and to arrange for the DNS to identify all code violations. We were also interested in what the CDBG Agency did after January 26th to disclose or otherwise address this serious non-performance issue of SCO. However, in spite of numerous reminders by the CDBG Agency of the City and Federal standards for rehab work and its related demands for action, it appears that the contractor (SCO) was unable or unwilling to bring the properties into code compliance. The last enclosed communication from the CDBG Agency, dated January 28, 2004, requests of Mr. Brewer of SCO to "...please provide us with a status report on getting the Westside issues corrected. Are any scopes/costs completed or in progress?".

Today, October 29th, we received a letter from Mr. Mahan responding to our letter of August 12th regarding the oversight activities of the CDBG Agency on this project. According to his response, DNS completed interior inspections and issued orders to Westside for code violations in Feb-Mar, 2004. Mr. Mahan indicated that his agency focused on DNS inspections and SCO (subcontractor) performance at this point.

Mr. Mahan did not indicate the existence of any CDBG Agency formal or other written disclosure to the CED Committee or Common Council in 2004 over the continued non-performance by SCO as the problems with the subject properties continued without correction. He did indicate that "the HUD Inspector General had been contacted" but doesn't indicate who made the contact.

Regarding whether eligible owners or renters were residing in the properties, Mr. Mahan indicates that "information provided by SCO, on behalf of Westside Housing Coop, indicated that units were either sold or occupied by low-to-moderate income coop members, per HOME requirements." However, he adds that "Backup (support) information was not required at the time." In effect the CDBG Agency leaves the question of eligible owners-tenants unanswered.





Mr. Mahan does not indicate the current repair status of the subject properties. He does say that the "CDRGA does believe that the remaining work can be completed utilizing the balance of the grant funds from the original Westside award (amount unknown), with the one possible exception being the property at 1443 N. 24th St. The purpose of the additional \$100,000 was to address the property at 1443 N. 24th Street. - Since the Common Council has assigned this additional \$100,000 to the DCD for this purpose, one issue is how to transfer the remaining unspent funds from the original Westside grant to the DCD to complete all remaining work.

Our read on this situation:

After well over 1 1/2 years, the SCO has not successfully completed its work. Given the people currently residing in these 17 units and the fact that the use of HOME funds apparently requires full compliance with local building codes, the successful completion of this project is absolutely essential. With the CED Committee meeting Nov 1, we would strongly suggest that the Common Council withhold final action on any applications for CDBG or HOME funding to the SCO or affiliates, pending satisfactory resolution of the Westside housing issues, including possible restitution by SCO to the City. We would also suggest that the City Attorney explore possible legal action against SCO as necessary to reclaim that portion of funds given to SCO for work not completed. These funds could also be transferred to DCD to help complete the needed work on the subject Westside properties.

Mike Deun

CC:

Curley, Patrick; Davis Sr., Joe; Mahan, Steve; Morica, Wally

**From:** Michael Daun  
**To:** Bauman, Robert  
**Date:** 10/29/2004 5:00:45 PM  
**Subject:** RE: West Side Housing Coop

## EXHIBIT 2 (ENLARGED)

Ald. Bauman,

At Wally's request, I'm responding to your email of Oct 27th to him requesting our follow-up on this topic as well as your earlier August 5th letter. I apologize for the lateness of our response as we were awaiting the response of the CDBG director.

On August 12th, we wrote a letter to the Director of the CDBG Agency, requesting information evidencing what the CDBGA had done over the prior 12 months to address the above issues for this WHC project. We followed up with an extensive interview with the Director and his staff on August 17th. On August 23rd, we received documentation from the Director related to this project.

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The documentation to us from the CDBGA Director on August 23rd contained various communications between the CDBG Agency and the South Community Organization and its Director, Mr. Michael Brever. This documentation also included CDBG Agency communications with the Department of Neighborhood Services (DNS) dealing with DNS inspections of the properties for building code compliance.

This CDBG Agency-provided documentation covered the period from October 31st, 2003 through January 26, 2004. **It clearly documents the existence of major interior code violations discovered on the subject properties once the CDBG Agency monitor was able to gain entrance to the properties.**

The documentation demonstrates the successful efforts made by the CDBG Agency during October 2003 through January 2004 to initially inspect the properties and to arrange for the DNS to identify all code violations. We were also interested in what the CDBG Agency did after January 26th to disclose or otherwise address this serious non-performance issue of SCO. However, in spite of numerous reminders by the CDBG Agency of the City and Federal standards for rehab work and its related demands for action, **it appears that the contractor (SCO) was unable or unwilling to bring the properties into code compliance. The last enclosed communication from the CDBGA, dated January 26, 2004, requests of Mr. Brever of SCO to "...please provide us with a status report on getting the Westside issues corrected. Are any scopes/costs completed or in progress?"**

Today, October 29th, we received a letter from Mr. Mahan responding to our letter of August 12th regarding the oversight activities of the CDBGA on this project. According to his response, DNS completed interior inspections and issued orders to Westside for code violations in Feb-Mar, 2004. Mr. Mahan indicated that his agency focused on DNS inspections and SCO (subcontractor) performance at this point.

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Mike Daun

CC: Curley, Patrick; Davis Sr., Joe; Mahan, Steve; Morics, Wally

August 6, 2001

*Neighbors  
Helping  
Neighbors*

Ms. Juanita Hawkins  
CBGA  
City Hall  
200 E. Wells Street  
Milwaukee, WI 53202

Dear Ms. Hawkins,


At the request of the Board of Directors of the Westside Housing Cooperative (WHC) I would like to formally request CBGA consideration of an allocation of HOME Funds to return WHC properties to a code compliant and energy efficient status. As you may know, WHC is a former subgrantee of the City of Milwaukee and acquired and renovated a 280 unit residential portfolio utilizing CDBG and HOME funds.

During the past two years WHC has embarked on a process of downsizing their portfolio to a manageable number of units, thus making them more efficient and more cost effective. Since January of 2000, the portfolio has been reduced from 280 units to 220 units. Many of the remaining units require moderate to substantial rehab to return them to code compliance and energy efficiency. If WHC were able to perform this rehab on a subsidized basis, the ability to market these properties to low/moderate income purchasers would be greatly enhanced.

To be specific about the request, WHC is requesting consideration of an allocation of \$500,000 in HOME funds which would be used as a construction subsidy. With these funds, WHC would ensure that a minimum of 20 units would be renovated and marketed for resale to owner occupants. To assist in the marketing, we have secured a grant from the Federal Home Loan Bank which will provide a \$4,000 subsidy to each of 20 purchasers of WHC properties over the next two years.

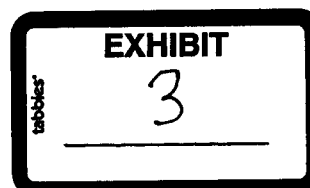
Should CBGA be willing to explore such a request, and should there be a formal process which requires additional information, I urge you to contact our office at your convenience. On behalf of the Board of Directors of WHC, I wish to express our appreciation for your willingness to consider this request.

Sincerely,



Michael S. Brevier  
Executive Director

cc Alderman Paul Henningsen



CONTRACT FOR SERVICES-HOME FUNDS  
City of Milwaukee  
COMMUNITY DEVELOPMENT  
BLOCK GRANT PROGRAM

CONTRACT NUMBER: **C15102M014**  
DEPARTMENT: **DOA-CBGA**  
DATE OF AWARD: **November 6, 2001**  
FUND NUMBER: **See attached encumbrance**

Distribution:

Department Use

Original - DOA - CBGA  
Copy 1 - Contractor  
Copy 2 - Comptroller

The provisions of this Contract have been approved by the Office of the City Attorney of the City of Milwaukee.

SERVICE DESCRIPTION: See Attachment A hereto

TIME OF PERFORMANCE : **January 1, 2002 through December 31, 2002**

TOTAL AMOUNT OF CONTRACT: Not to exceed **Five Hundred Thousand and 00/100 -- DOLLARS (\$500,000.00)**, and subject to the terms, conditions and limitations on funding amounts for specific activities set forth in **Attachment A** hereto.

THIS AGREEMENT, entered into by and between **Westside Housing Cooperative, Inc.** (hereinafter referred to as the "CONTRACTOR"), and the City of Milwaukee, a municipal corporation of the State of Wisconsin (hereinafter referred to as the "CITY").

Performance and schedules will be approved by Juanita Hawkins, Director of the City of Milwaukee Community Block Grant Administration (or the Director's designee).

Work may commence in accordance with the terms and conditions of this Contract on **January 1, 2002**, provided the grant agreement for the Community Development Block Grant program (the "Grant Program") from the U.S. Department of Housing and Urban Development has been executed by the City of Milwaukee or the Common Council of the City of Milwaukee has established other temporary appropriation authority for the City's Grant Program, or subject to the specific limitations set forth in Article III hereof.

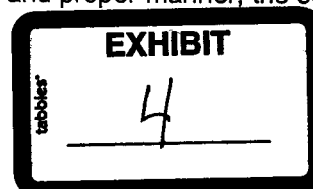
WITNESSETH THAT:

WHEREAS, The CONTRACTOR represents itself as being capable, experienced and qualified to undertake and perform those certain services, as hereinafter set forth, as are required in accomplishing fulfillment of the obligations under the terms and conditions of this Contract as an independent contractor and not as an employee of the CITY.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. RETENTION OF SERVICES AND REQUIREMENTS. The CITY hereby agrees to engage the CONTRACTOR and the CONTRACTOR hereby agrees to personally perform, as an independent contractor and not as an employee of the CITY, the services hereinafter set forth, all in accordance with the terms and conditions of this Contract. CONTRACTOR, agrees time is of the essence and will meet all deadlines, any schedules as herein set forth, and is required to:

A. Do, perform, and carry out in a satisfactory, timely, and proper manner, the services delineated in **Attachment A** to this Contract.



- B. Comply with requirements listed with respect to reporting on progress of the services, additional approvals required, and other matters relating to the performance of the services.
- C. Comply with time schedules and payment terms.

II. SCOPE OF SERVICES. A specific description of service relating to the activity report and budget delineated in the approved **Attachment A** attached to and made part of this Contract.

- 1. CONTRACTOR will adhere to the Administrative Policies and Procedures for the City of Milwaukee's Community Development Block Grant Program as adopted by the CITY's Community Development Policy Committee attached to and made a part of the Contract as **Attachment B**.
- 2. Any Budget Amendment or Activity Report amendment to be considered by the CITY from the CONTRACTOR must be submitted no later than 4:00 P.M. on September 30, 2002.
- 3. In addition to the above, the scope of services will include all items listed on the original form CDA-62 of **Attachment A** or on an amended Form CDA-62 approved in writing by the Community Block Grant Administration.

III. AVAILABILITY OF FUNDS

- A. This contract award is 100% funded under the Grant Program. Thus, should the availability of federal funds be reduced, the CITY and the CONTRACTOR agree that the City of Milwaukee's Community Development Policy Committee can modify and reduce either the CONTRACTOR's compensation (as listed on page 1 as the "Total Amount of Contract") or the CONTRACTOR's program year or both. (The Community Development Policy Committee will notify the CONTRACTOR of such reduction). In the event of such modification or reduction, the parties shall agree upon the portions of the contract to be reduced or modified.
- B. The CITY and CONTRACTOR further acknowledge that payments under this Contract are subject to either (1) actual receipt by the CITY of funding by the Grant Program or (2) the ability of the CITY to finance its payment obligations hereunder with other City funds pending receipt of the federal grant monies.

IV. NOTICES. Any and all notices shall be in writing and deemed served upon depositing same with the United States Postal Services as "Certified Mail, Return Receipt Requested," addressed to the CONTRACTOR at:

Name: **Westside Housing Cooperative, Inc.**

Address: **2505 West Vliet Street**

City: **Milwaukee, WI 53205**

Attention: **Dennis Barrish**

XXXIII. ATTACHMENTS AS PART OF CONTRACT. In addition to the requirements as set forth herein, the CONTRACTOR shall comply with the terms and provisions of each and every Attachment appended hereto as if such provisions were fully set forth herein.

CITY OF MILWAUKEE,  
a municipal corporation

By: Juanita Hawkins  
(Block Grant Director, CBGA)

Date: August 20, 2002

CONTRACTOR:

Westside Housing Cooperative, Inc.

By: [Signature]

Title: K.O. CONSULTANT

Date: 7/25/02

By: Marie Banach

Title: Comp/consultant

Date: 7/25/02

Countersigned:

[Signature]  
(City Comptroller) TUS

Date: AUG 23 2002

Examined and approved as to form  
and execution this 29 day of  
August, 2002.

[Signature]  
Assistant City Attorney

# CERTIFICATE REGARDING CORPORATE AUTHORITY

The undersigned hereby certify, represent and warrant that they are the duly elected Board Officers or member of the Board of Directors of WESTSIDE CONSULTANTS, INC., a corporation organized and existing under the laws of the State of WISCONSIN (the "Corporation"), incumbent in the offices set forth below their respective signatures, and as such officers they are familiar in general with the Corporation's affairs, properties and records and in particular with the contract to which this Certificate relates.

Reference is made to that certain Contract for Services ("Contract"), dated as of JULY 25, 2002, between the Corporation and the City of Milwaukee, Wisconsin (the "City").

As an inducement for the execution and delivery of the Contract by the City, the undersigned, on behalf of the corporation, do hereby certify to the City as follows:

1. The Corporation is a corporation duly organized and validly existing in good standing under the laws of the State recited in the first paragraph of this Certificate.
2. The Corporation is licensed or authorized to do business in Wisconsin.
3. The Corporation has full corporate right, power and authority to enter into, execute and deliver the Contract and to perform its obligations thereunder.
4. The execution, delivery and performance by the Corporation of the Contract has been authorized by all necessary corporate action on the part of the Corporation.
5. The person named below was on the date hereof, and was on the dates of the execution of the Contract, the duly elected (or appointed) and qualified incumbent of the office of the Corporation set for below with his/her signatures:

Name	Title	Signature
<u>MICHAEL S. BRUEHL</u>	<u>R.D. CONSULTANT</u>	<u>[Signature]</u>
<u>Marie Banach</u>	<u>Comp/Consultant</u>	<u>Marie Banach</u>

The Contract has been duly executed and delivered on behalf of the Corporation by such person, who is authorized so to do, and the Contract constitutes a legal, valid and binding obligation of the Corporation in accordance with its terms.

6. No authorization, approval, consent or license of any regulatory body or authority, not already obtained, is required on the part of the Corporation for the valid and lawful authorization, execution and delivery of the Contract and the assumption by the Corporation of the obligations represented thereby.

7. The execution and delivery of the Contract and the assumption by the Corporation of the obligations represented thereby will not conflict with, violate or constitute a breach of, or default under the Corporation's Articles of Incorporation or Bylaws or any commitment, indenture, agreement, instrument or court or regulatory order to which the Corporation is a party or by which it or any of its properties are bound.



8. On the date hereof, the Corporation has delivered to the Parties certain Resolutions of its Board of Directors. These Resolutions were in full force and effect on the dates of the execution and delivery of the Contract and continue to be in full force and effect on the date hereof.

Dated this 25th day of June, 2002.

(NAME OF CORPORATION)

By:

[Signature] 7/31/02

Title:

Secretary

By:

[Signature]

Title:

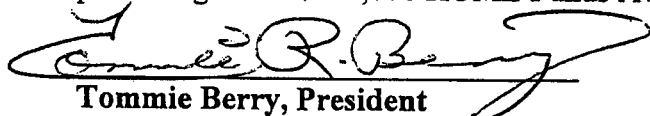
President Westside Housing Corp 07/25/02

(CORPORATE SEAL)

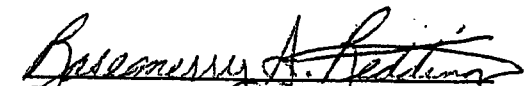
## WESTSIDE HOUSING COOPERATIVE

In my capacity as President of the Board of Directors of Westside Housing Cooperative, I certify that, at a meeting of the Board of Directors of Westside Housing Cooperative held on July 6, 2002, at which a quorum of the Board was present, the Board approved the following resolution by unanimous consent:

Resolved that the Board of Directors do hereby authorize the approval of the corporations participation in Community Block Grant Administration's (CBGA) \$500,000 contract. The Board acknowledges that it has the legal authority to carry out this agreement and recognizes the intent of the project to rehabilitate 20 homes, designated by the Board, to code compliance and sell to low/moderate income families. The Board stipulates that it does not, nor does any member of the Board have a personal interest in the project, nor will it, or any member of the Board receive benefit or gain as a result of this project or agreement. The Board designates its' consultant, Mr. Michael S. Brever, Executive Director of South Community Organization, to serve as signatory and sign all documents on behalf of the corporation. The Board acknowledges that this will include but not be limited to any conditions as stipulated in the contract documents as prepared by CBGA. The Board acknowledges that Mr. Brever's signature will serve to obligate the corporation for all conditions as detailed in the documents signed by Mr. Brever. This authorization provides specific authority for Mr. Brever to sign contract documents pertaining to the \$500,000 HOME Funds Award from CBGA.



**Tommie Berry, President**  
**Westside Housing Cooperative, Board of Directors**

  
**Betty Glosson, Board Member**  
**Barbara Tate, Board Member**  
**Rosemary Redding, Board Member**  
**Ernestine McIntyre, Board Member**

All signors personally came before me this 19<sup>th</sup> day of July, 2002, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Marie Banach  
Notary Public, State of Wisconsin  
My commission expires 10/24/04



Department of Administration  
Community Block Grant Administration

John O. Norquist  
Mayor

David R. Rierner  
Director

Juanita Hawkins  
Administration—Block Grant Director

April 24, 2000

Mr. Michael Brever, Executive Director  
South Community Organization  
1635 S. 8<sup>th</sup> Street  
Milwaukee, WI 53204

Re: South Community Organization -Proposed  
Agreement with Westside Housing Cooperative

Dear Mr. Brever:

The Community Block Grant Administration requested that the City Attorney review the proposed agreement between South Community Organization (SCO) and Westside Housing Cooperative (WHC) relative to management of certain properties owned by WHC. The City Attorney examined this agreement to determine whether it is in compliance with the statutes and regulations to which SCO is subject as a result of its contractual agreements in connection with the expenditure of Community Development Block Grant (CDBG) funds.

In the City Attorney's opinion, "The CDBG contract anticipates that all positions which are fully-funded with CDBG funds will be used exclusively for the purposes set forth in the contract. If the persons holding such positions perform tasks other than eligible activities under HUD regulations, the expenditure of CDBG funds for such activities would violate both the terms of the CDBG contract and the applicable federal regulations. This would constitute a breach of contract and create grounds for withholding payments pursuant to section VII of the contract, or terminating the contract for cause pursuant to section VII of the contract."

C.B.G.A. again refers to the City Attorney's opinion with respect to the proposed agreement between SCO and WHC, in which the City Attorney notes, "the agreement anticipates that SCO will provide WHC with staff to conduct all property management, asset management, accounting and staff for WHC, and that SCO expects to assign the equivalent of five full-time employees to perform these services." The City Attorney opinion notes that "We again emphasize that the SCO staff positions fully-funded with CDBG funds may not be assigned to perform these

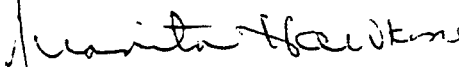
services. The City Attorney further noted that other provisions of the agreement raised legal issues other than compliance with HUD regulations. With respect to the compensation to be paid to SCO under the proposed agreement, WHC agrees that "the compensation due SCO will have first priority over other liabilities of WHC." This agreement would be insufficient to defeat the priority status of previously perfected liens. In addition, in the event of a bankruptcy filing by SCO, any payments made to SCO in the 90 days preceding the filing of a petition with the Bankruptcy Court might be subject to disgorgement by SCO pursuant to 11 U.S.C. S. 547.

Tax Account Summaries prepared by the City Treasurer's office indicate that as of April 4, 2000, WHC owed the City of Milwaukee over \$39,000 in delinquent property taxes. Presumably, under the terms of the proposed agreement, WHC has elected to provide SCO with a priority right to payment over these delinquent property tax liabilities.

C.B.G.A. will continue to monitor the South Community Organization's adherence to all terms and conditions of their Program Year 2000 CDBG contract.

Should you have any questions on this matter, please contact myself, or Program Officer, Paul Geib at 286-3823.

Sincerely,



Juanita Hawkins  
Block Grant Director

cc: Cynthia Cullinan, Board President  
Ellen Tangen, City Attorney  
Michael Soika, Mayor's Office

# ESCROW FUND DISBURSING AGREEMENT

## CITY OF MILWAUKEE COMMUNITY BLOCK GRANT ADMINISTRATION

### HOME FUNDS

WHEREAS, the undersigned **Westside Housing Cooperative, Inc.** ("CBO") and the City of Milwaukee, acting through its Community Block Grant Administration (the "City") have entered into a contract No. **C15102M014** dated as of **January 1, 2002** (the "Grant Contract"), relating to the expenditure of HOME Investment Partnerships Act Funds in a total amount of not to exceed **\$500,000.00** (the "Grant Funds"); and

WHEREAS, the CBO and the City request the Title Company to supervise the disbursement of Grant Funds under the Grant Contract and in accordance with the terms of this Disbursing Agreement;

NOW, THEREFORE, the City, the CBO and the Title Company hereby agree as follows:

1. **Creation of Separate Escrow Accounts.** As part of its feasibility package submitted to the City, the CBO will submit to the City a budget for each property to be financed with Grant Funds. Each such property shall be treated as a separate project (hereinafter each referred to as the "Project") for purposes of this escrow agreement. The City will issue an award letter to CBO, with a copy to the Title Company, which award letter shall identify the specific Project to be constructed or rehabilitated by the CBO, and the amount of Grant Funds allocated to such Project. Each award letter shall become a part of this contract. Title Company shall create separate non-interest-bearing escrow accounts for each Project identified in each award letter. The separate escrow accounts for each Project shall be separately administered by the Title Company, and each escrow account shall be subject to the terms and provisions of this Escrow Agreement.

2. **Project Budget and Contractor's Disbursement and Control Affidavit.** CBO will continuously advise the City and the Title Company of the name of each person, corporation or other entity who is to receive any portion of the Grant Funds as payment in connection with the acquiring, constructing, financing, equipping and development of each Project (all of such persons, corporations or other entities being called "Contractors"). If requested by the City or the Title Company, CBO will



the proceeds received from the City by delivering to the contractor on whose behalf payment is requested, its check in the amount requested in such draw request. The Title Company shall make such disbursements within 10 business days of the receipt of a draw request that complies with all of the requirements of this Agreement.

**6. Withholding of Disbursements.** In the event that the Title Company shall determine that proper documentation as required by this Disbursing Agreement to support a given draw request has not been furnished, or that the results of the inspection required under Section 10 of this Agreement are not satisfactory to the Title Company, or that any other condition precedent to the payment of a draw request has not been met, the Title Company shall withhold payment of all or such portion of such draw as shall not be so supported by proper documentation, and shall promptly notify the CBO and the City of the discrepancy or omission in such documentation. Until such time as such discrepancy or omission is corrected to the satisfaction of the Title Company, it shall withhold such amount. In the event that the CBO and the Title Company cannot agree with respect to a disputed draw request, either party may request a determination from the City, in which case the City's Community Block Grant Administration and Department of Building Inspection shall jointly render a final determination with respect to payment of such disputed draw request.

**7. Title Company Records.** With respect to each Project, the Title Company shall keep records showing the names of all Contractors to whom payment is made by the Title Company, the date of each payment, and the amount of each payment, which records may be inspected by the CBO and the City. The Title Company shall also provide the City with a monthly report, in a form acceptable to the City, which accurately summarizes, by property and by CBO, deposits and disbursements of funds pursuant to this Agreement and any other similar Agreement entered into between the City, the Title Company and a nonprofit housing agency holding a grant contract with the City.

**8. Audit by City Comptroller.** The Title Company shall permit the City Comptroller or his designee, during reasonable business hours, to inspect and audit all books and records relating to the Title Company's performance of its obligations under this Agreement.

**9. Inspections by CBO.** The CBO shall be responsible for making inspections of each Project during the course of construction, and shall determine to its own satisfaction that the work done, if any, or materials supplied by the Contractors to whom payment is to be made out of each draw has been properly done or supplied in accordance with applicable contracts with such Contractors.

**23. Compensation to Title Company.** The Title Company shall be compensated for its services hereunder as provided in the schedule attached hereto.

**24. Year 2000 Warranty.** The Title Company represents and warrants that the software/firmware/equipment/system to be used in the performance of its obligations under this Agreement has been designed or modified and fully tested in such a manner that the software/firmware/equipment/system will not generate any invalid and/or incorrect date-related results or cause any of the problems commonly referred to as "Year 2000 problems" and will, without interruption or manual intervention, continue to operate consistently, predictably and accurately and in accordance with all of the requirements of this Agreement, including without limitation meeting all specifications and/or functionality and performance requirements, when used during any year prior to, during or after the calendar year 2000.

**25. Terms of RFP.** The terms and conditions set forth in the City's Request for Proposals dated November 19, 1999 with respect to this Agreement, and the Title Company's response thereto, are hereby incorporated by reference, and each of the obligations, representations and covenants agreed to therein by the Title Company shall be binding upon the Title Company as if fully set forth herein.

**26. Notices.** Any notices required by this Agreement shall be delivered to the following addresses:

If to the City:

Community Block Grant Administration  
200 East Wells Street, Room 606  
Milwaukee, Wisconsin 53202  
Attention: Juanita Hawkins, Director

If to the City Comptroller:

City of Milwaukee  
Office of the Comptroller  
200 East Wells Street, Room 404  
Milwaukee, Wisconsin 53202  
Attention: W. Martin Morics, Comptroller

If to the CBO:

**Westside Housing Cooperative, Inc.**  
**2505 West Vliet Street**  
**Milwaukee, WI 53205**  
**Attn: Tommie Berry, President**

If to the Title Company:

Chicago Title Insurance Company  
20900 Swenson Drive  
Suite 900  
Waukesha, WI 53187-0987

**27. Limits of Title Company' s Duties.** The functions and duties assumed by the Title Company include only those described in this Agreement, and the Title Company is not obligated to act except in accordance with the terms and conditions of this escrow agreement. The Title Company does not certify or insure that (a) the building will be completed, (b) that the building, when completed, will be in accordance with plans and specifications, (c) that sufficient funds will be available for completion, or (d) that the certifications of the Inspector/Architect are correct. The Title Company shall not be responsible for any loss of documents or funds while such documents or funds are not in its custody. Documents or funds deposited in the United States Mail shall not be construed as being in custody of the Title Company.

**28. Severability; Governing Law.** If any provision hereof is duly held by a court of competent jurisdiction to be invalid with respect to any circumstance or otherwise, the remainder of this Agreement and/or the application of the Agreement to any other circumstance, shall not be affected thereby. The parties intend that the laws of the State of Wisconsin and ordinances and regulations of the City of Milwaukee shall be the governing law with respect to this Agreement.



By our signatures on this 25th day of July, 2002,  
the undersigned Title Company, the CBO, and the City of Milwaukee agree to all terms  
and conditions of this Agreement.

CBO: **Westside Housing Cooperative,**  
**Inc.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**THE CITY OF MILWAUKEE**

By: \_\_\_\_\_

(Block Grant Director, CBGA)

Date: \_\_\_\_\_

COUNTERSIGNED: \_\_\_\_\_

(Comptroller)

Date: \_\_\_\_\_

AUG 23 2002

**CHICAGO TITLE  
INSURANCE COMPANY:**

By: \_\_\_\_\_

Deborah Ryan Halmo

Title: \_\_\_\_\_

Escrow Officer

Date: \_\_\_\_\_

8-13-02

Approved as to form and execution this  
29 day of August, 2002

\_\_\_\_\_  
(Assistant City Attorney)

# Tri-Corp Housing, Inc.

1635 S. 8<sup>th</sup> Street . Milwaukee, WI 53204 . 643-7913 . fax 643-5972

www.tricorphousing.org

November 23, 2004

Cynthia Dodge,  
President  
G. Eddie Paez  
Vice-President  
Judi Keller,  
Secretary  
Joe Henika,  
Treasurer

Mr. W. Martin Morics  
City Comptroller  
City Hall  
200 E. Wells Street  
Milwaukee, WI 53202

Dear Mr. Morics,

#### Directors

Ed Alarupi  
Cynthia Cullinan  
Judith Free  
Margarita Garcia-  
Guerrero  
Dr. Leslie Gombus  
John Machulak  
Florence Plesser  
Gladys Roszak  
Mary Louise Stenger  
Jack West

You have my appreciation for including me in the list of individuals that were copied in your letter to Alderman Bauman on November 10, 2004. I appreciate your desire to provide clarification pertaining to comments from the Comptrollers Office in its e-mail to Alderman Bauman dated October 29<sup>th</sup>. I feel it appropriate to provide other information since we all are in the pursuit of clarity. Many discussions apparently have been had about Tricorp/SCO but you are the first to include Tricorp in the written communication and provide me with a venue for input. I believe that Tri-Corp invested considerable effort in bringing the WHC project to closure in 2004, but were unable to do so for multiple reasons.

My principle issue pertains to comments contained in the 7<sup>th</sup> paragraph of the letter found on Page 2. Your letter states "in spite of numerous reminders by the CDBG Agency of the City of Milwaukee and Federal standards for rehab work and its' related demands for action, it appears that the contractor (SCO) was unable or unwilling to bring the properties to code compliance". While I do not dispute that the interiors of the properties remain in a non code compliant status as of this date, I do not believe that the root cause is our unwillingness or inability to do so.

As of December 2003, 5 of 9 properties had been certified code compliant for exterior purposes. 3 more properties would imminently achieve similar status. We were notified by the Block Grant office that additional work would be required pertaining to federal regulations which required that the interior of the properties achieve code compliance as well.

*South  
Community  
Organization*

*Southeast  
Affordable  
Housing*

*Housing  
With  
Help*



When we initially contacted the Block Grant office regarding our desire to amend the setup amounts for these properties, we were informed that the Comptrollers Office would not allow amendments to setups, but rather would require a contract extension to the WHC contract for the 2004 program year. Our objective had been to utilize the remaining funds from the original \$500,000 award to bring 8 of the 9 properties to interior code compliance. This would conclude efforts on those properties due to the fact that they had already achieved exterior code compliance.

We were instructed by the Block Grant office to commence a series of inspections to the interiors of each house, by building inspectors, to determine the specific level of code compliance, or lack thereof, so that we could then prepare scopes of work and budgets.

During the first week in January, our general contractor for this project, Fusion Design, attempted to secure certificates of code compliance for the 3 homes that were imminently due to achieve exterior code compliance. Fusion Design was informed by DNS that the Block Grant office had put a hold on all WHC code compliance applications until further notice, and they refused to accept his fees or schedule inspections.

During the early part of 2004, we were engaged in the process of having DNS inspect the interiors of the subject properties. On February 2<sup>nd</sup>, our grant monitor was informed via e-mail that 2 of 9 properties had had inspections scheduled and DNS failed to appear. We were informed that DNS preferred to inspect all nine homes on one day and proceed from house to house. Coordinating inspections of 17 units with tenants/home buyers, WHC representatives, and DNS inspectors consumed much of February. On February 26<sup>th</sup> via e-mail, our grant monitor was informed that the last of the inspections would transpire on the next day, Mr. Werra requested a schedule of these inspections should he choose to attend. On March 8, via e-mail, Block Grant staff were informed that the inspections of all WHC properties were complete and that we had received all the work orders from DNS.

In regard to the actual process of preparing scopes of work, and budgets, based on DNS inspections, our office had several communiqués with the Block Grant office as well. Simply put, all scopes and budgets were prepared by SCO staff based on DNS inspections and field notes from our staff.

Via e-mail on March 29<sup>th</sup>, our staff informed our grant monitor that all scopes and budgets were complete and an offer was made to go over them with Block Grant staff. This meeting transpired between John Kaye of our staff, Garry Werra and Steven Mahan of the CBGA office on 3/31/04.

On April 2<sup>nd</sup>, via e-mail, our staff requested of our grant monitor the process of accessing funds to complete the work. We informed our grant monitor that we were in the process of soliciting bids and determining which bids to accept. We were informed via e-mail which forms would be required to be submitted to access funds for the work activities.

On April 15<sup>th</sup> of 2004, the first amended setup was delivered to the Block Grant office. An approval letter for this setup was forwarded to us dated April 21<sup>st</sup>. We received this letter on April 28<sup>th</sup>. On April 29<sup>th</sup> my staff hand delivered TS-81s and the CDA70A to the Block Grant office for this first house (1232 N. 22<sup>nd</sup> Street). On that same day, our grant monitor informed my staff that the TS81 would be returned to us because we did not have an executed contract extension for the project. We were also informed that the approval letter may have been in error. We were informed that no funds had been released or forwarded to Chicago Title Insurance.

On May 5<sup>th</sup>, we were informed that the Block Grant office required a budget page for the WHC contract that was finally in preparation. This document was prepared and submitted to the Block Grant office within 24 hours.

On June 2<sup>nd</sup>, via e-mail from our grant monitor, we were informed that the Certificate of Insurance for WHC was no longer valid and we were requested to forward one to the Block Grant office. Upon attempting to have WHC do so, we were informed that the insurance had actually expired and the WHC properties were uninsured. We spent the next four weeks attempting to re-insure the properties through the insurance office of JP & Associates, and were ultimately successful in doing so. Our efforts to secure the insurance were documented in e-mails of June 7<sup>th</sup>, June 15<sup>th</sup>, June 21<sup>st</sup>, and June 29<sup>th</sup> to our grant monitor. Our efforts were complicated by the fact that we had no legal standing at WHC due to the fact that our management contract had expired on 11/30/03.

In late June, based on our progress with securing insurance on WHC's behalf, and our belief that the release of a WHC contract extension was imminent, my staff forwarded 4 more feasibility packages to the Block Grant office for the purpose of amending setup amounts and allowing work to begin. We were informed, via e-mail, on July 1<sup>st</sup>, that the feasibility packages would be returned because the contract extension had not been executed as of yet.

We received the contract extension in mid July from the Block Grant office. Again, our efforts to secure signatures and properly execute the contract for WHC were complicated by the fact that we had no legal standing with WHC as of 11/30/03.

On August 6<sup>th</sup>, my staff hand delivered the executed contract extension along with the previously mentioned feasibility packages. The dates on the feasibility packages had been modified to be consistent with the new submission. These feasibility packages along with revised set-up requests were returned to our office, with a letter dated August 19<sup>th</sup>, informing us that all the WHC accounts were frozen. The letter did not provide an explanation nor was any additional information included in the correspondence.

I wish to assure you that each of these activities which occurred in 2004 can be substantiated by e-mails, faxes, letters or source documents in our files. We do not wish to minimize the fact that the WHC properties remain in a non code compliant status, but

we do wish to explain that there are circumstances which prevailed that dictated our ability to bring this project to closure.

The Westside project has been a difficult venture at best, and the path to success has not always been easily identified. It has been a fluid process with changing dynamics as events unfolded. Unfortunate timing of communications appeared to muddy the water further.

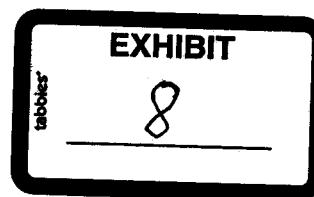
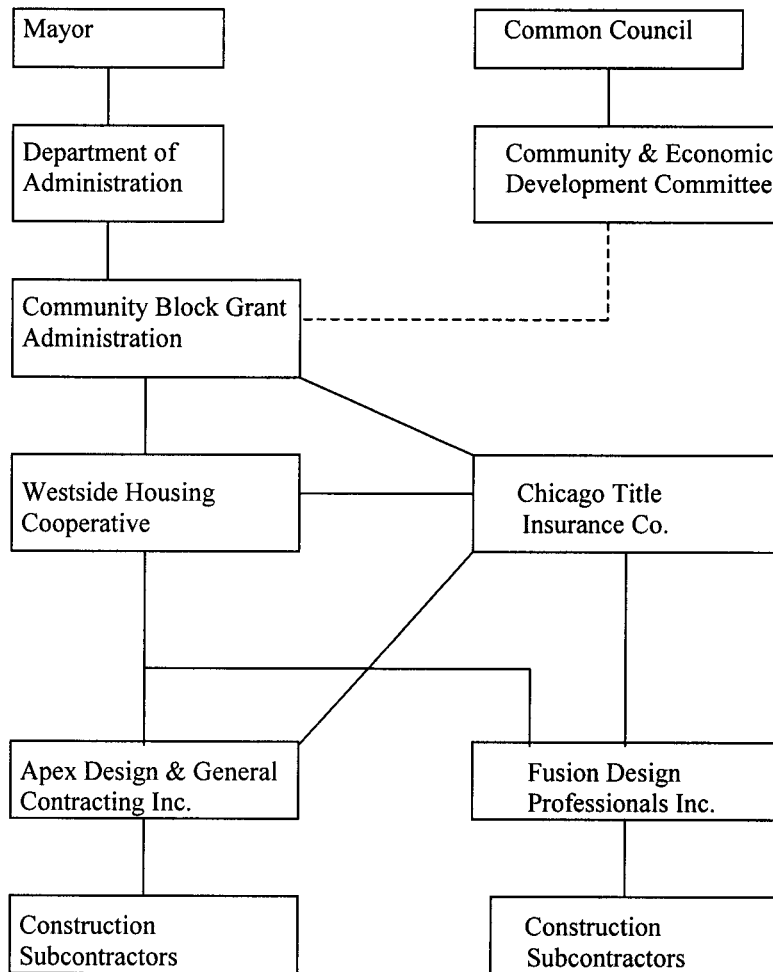
Should you have any questions or comments, I urge you to contact my office at your convenience. I appreciate the opportunity to clarify our efforts to bring this project to closure.

Sincerely,

Michael S. Brever  
Executive Director

Cc Grant F. Langley  
Steven Mahan  
Alderman Robert J. Bauman  
Alderman James Witkowiak  
Alderman Robert Donovan  
Alderman Terry Witkowski

## WHC Property Rehabilitation Project Cash Flow Chart



Audit of Westside Housing Cooperative  
Property Rehabilitation Project  
Organization Chart  
Attachment 2

